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DELAWARE COUNTY COURTHOUSE, MUNCIE, INDIANA

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INVENTORY OF THE COUNTY ARCHIVES

OF INDIANA

Prepared by

The Indiana Historical Records Survey
Division of Professional and Service Projects
Work Projects Administration

NO. 18. DELAWARE COUNTY

(MUNCIE)

The Indiana Historical Records Survey
Indianapolis
1940

FOREWORD 1157802

The *Inventory of the County Archives of Indiana* is one of a number of bibliographies of historical materials prepared throughout the United States by workers on the Historical Records Survey Program of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Delaware County, is number 18 of the Indiana series.

The Historical Records Survey Program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local government, and which provide invaluable data for students of political, economic, and social history. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, business men, and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey Program attempt to do more than give merely a list of records—they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country, will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey Program, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their co-operation is gratefully acknowledged.

The Survey Program was organized and has been directed by Dr. Luther H. Evans, and operates as a nation-wide series of locally sponsored projects in the Division of Professional and Service Projects, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

F. C. HARRINGTON
Commissioner

PREFACE

The Historical Records Survey, a project of the Division of Professional and Service Projects of the Work Projects Administration, was organized in January 1936 under the supervision of Dr. Luther H. Evans, National Director. On February 19 of that year the survey of local public records was begun in Indiana as part of the Federal Writers' Project. Samuel J. Kagan was assigned to direct public records work, and when in September 1936 the Survey became independent of the Writers' Project, Mr. Kagan was named State Director. On September 1, 1939 the Indiana Historical Records Survey became a state project, under the sponsorship of the Indiana Historical Bureau. Roger A. Hurst, formerly of the Indiana Writers' Program, was appointed State Supervisor of the Survey in January 1940.

The objectives of the Indiana Historical Records Survey are to discover, preserve, and make accessible historical materials of a public or semi-public nature. Inventories of the records of counties, cities, and other governmental units, of churches and manuscript depositories have been or will be published. The Survey also transcribes early county commissioners' and circuit court records as a measure of preservation.

The *Inventory of the County Archives of Indiana* will, when completed, consist of a separate volume for each county. Numbers are assigned according to the county's position, in alphabetical order, and thus the Delaware County volume is number 18. The field work of the Survey in Delaware County was begun March 9, 1936 and completed June 20, 1936. Many visits to the courthouse have been made since to check information used in this book and the final recheck was made in September 1939.

The inventory proper is preceded by essays on the history, government, and records of the county. The records themselves are described in entries whose style is formalized to give the following information: Title of record, dates for which available, quantity, labelling of volumes and containers, variant titles, description of record contents, manner

of arrangement, indexing, nature of recording, size of volumes or containers, and location. The various bureaus of the county are arranged in functional order: Governing boards; major administrative offices; judicial offices; and financial, election, educational, health, public welfare, engineering, and other groups. Wherever applicable, natural groupings under separate headings are made within the bureau, and the entries are arranged thereunder also according to functional sequence.

Field work collected locally for this volume was submitted to the state editorial staff directed by Frank E. Ross. Staff department heads who helped prepare this book were: Marshall Cowgill, record entries; W. Davis Hamilton, legal research; Howard Oates, proofreading and indexing; Dr. J. Harley Nichols, historical sketch; Richard I. Nation, housing essay, and Fred S. Knodle, cartography. This volume was multigraphed and bound by WPA labor directed by Mrs. Alvira Pitts and William Deupree.

The Indiana staff received valuable advice and criticism from the National Office of the Historical Records Survey. This inventory in manuscript form was edited by Mabel S. Brodie, assistant archivist in charge of public records inventories, and Guy P. Timbee, members of the staff of the Library of Congress Project in the District of Columbia.

The Survey is deeply indebted to many Delaware County officials; to Dr. Christopher B. Coleman, Director of the Indiana Historical Bureau, who gave valuable advice and service; to John K. Jennings, State WPA Administrator; to Mildred E. Schmitt, State Director of the Professional and Service Projects Division, who has rendered the Survey a great personal service in the administering of the project; and to many others who contributed time and effort.

Five hundred copies of this volume have been published. Copies have been distributed without charge to state libraries, various government offices, and other depositories throughout the state and nation. Copies will also be available in Delaware County for all persons, public offices, or institutions having occasion to use county records.

ROGER A. HURST
State Supervisor
The Indiana Historical Records Survey

Indianapolis, Indiana
March 1940

THE HISTORICAL RECORDS SURVEY PROGRAM

Luther H. Evans, Director

Roger A. Hurst, State Supervisor

DIVISION OF PROFESSIONAL AND SERVICE PROJECTS

Florence Kerr, Assistant Commissioner

Alma B. Kerr, Chief Regional Supervisor

Mildred E. Schmitt, State Director

WORK PROJECTS ADMINISTRATION

F. C. Harrington, Commissioner

George H. Field, Regional Director

John K. Jennings, State Administrator

DELAWARE COUNTY OFFICIALS

1940

BOARD OF COMMISSIONERS

George W. Brinson

Marion J. Hofherr

Frank E. Thornburg

BOARD OF FINANCE

George W. Brinson

Marion J. Hofherr

Frank E. Thornburg

COUNTY COUNCIL

Moses E. Black

Carl Fuson

Burl Madill

C. Roy McCormick

Orville E. Russell

Chester C. Wingate

Frank E. Wright

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E. Arthur Ball

Moses E. Black

J. Monroe Fitch

Harry F. Guthrie

Linden B. Moffitt

Ira J. Wilson

CLERK OF THE CIRCUIT COURT

Jesse E. Greene

COUNTY ASSESSOR

Wilbur G. Van Arsdal

RECORDER

Robert M. Neiswanger

PROSECUTING ATTORNEY

Fred Davis

JUDGE OF THE CIRCUIT COURT

Leonidas A. Guthrie

AUDITOR

August Meyers

JUDGE OF THE SUPERIOR COURT

Claude C. Ball

REGISTRATION OFFICER

Jesse E. Greene

SHERIFF

O. P. Snodgrass

SURVEYOR

John Watson

CORONER

Earl K. Parson

COUNTY AGRICULTURAL AGENT

M. E. Cromer

TREASURER

J. Kenneth Foster

COUNTY HEALTH OFFICER

Dr. C. J. Stover

COUNTY HIGHWAY SUPERVISOR

Allen Jackson

COUNTY SUPERINTENDENT OF SCHOOLS

Lee O. Baird

COUNTY SCHOOL FUND BOARD

Jesse E. Greene

William T. Haymond

August Meyers

COUNTY BOARD OF EDUCATION

Composed of the county superintendent of schools, the township trustees, and the chairmen of municipal school boards

BOARD OF PRIMARY ELECTION

COMMISSIONERS

Park Gillespie

Jesse E. Greene

Karl Thoraburg

COMMISSION OF PUBLIC RECORDS

Composed of the judge and clerk of the circuit court, the president of the board of commissioners, and the auditor

COUNTY BOARD OF CANVASSERS

AND COUNTY BOARD OF ELECTION

COMMISSIONERS

Park Gillespie

Jesse E. Greene

Karl Thornburg

COUNTY INSPECTOR OF WEIGHTS AND MEASURES

Carl Stein

COUNTY BOARD OF REVIEW

Charles Cory

J. Kenneth Foster

Oliver Lindsay

August Meyers

Wilbur G. Van Arsdal

COUNTY BOARD OF PUBLIC WELFARE

Bertha Ball

Webb Hunt

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TOWNSHIP TRUSTEES

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Clifford C. Shuler
Charles R. Simonson
Lowell L. Stafford
Charles E. Weaver
Roscoe E. Wingate
E. Ward Young

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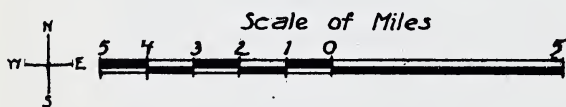
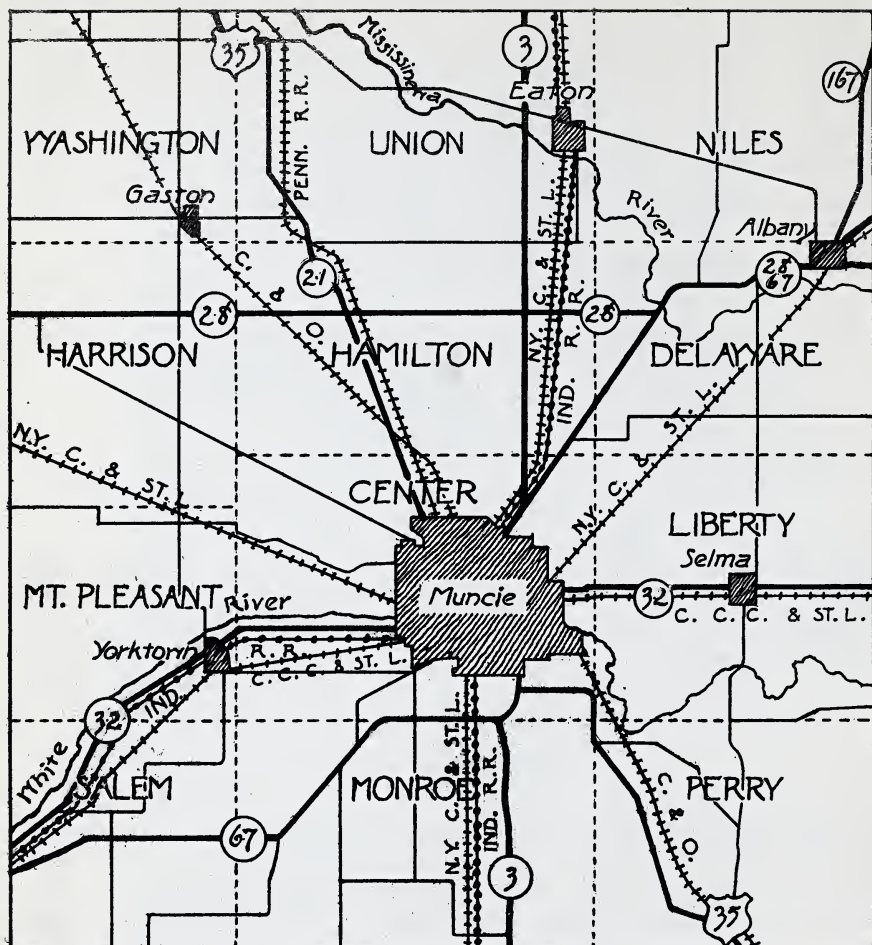
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MAP OF DELAWARE COUNTY



PART A. DELAWARE COUNTY AND ITS RECORDS SYSTEM

1. HISTORICAL SKETCH

Delaware County, lying in east central Indiana, is square in shape and has an area of 392 square miles, or 250,880 acres. By counties it is bounded on the east by Jay and Randolph; on the south by Henry; on the west by Madison; and on the north by Grant and Blackford.¹ The county has a mean annual temperature of 50.8° Fahrenheit, and an average annual rainfall of 39 inches.²

DRAINAGE AND TOPOGRAPHY

The northern portion of the county is drained by the Mississinewa River, a tributary to the Wabash. The remainder of the county is drained by the West Fork of White River and its tributaries. The surface of the county is level or gently undulating except in the vicinity of streams where erosion has rendered it more or less rolling and at times hilly. It is covered with a glacial deposit varying from 50 to 200 feet in thickness. This is underlaid with Niagara limestone which in a few places is near enough to the surface to be quarried.³

The soil of the county may be divided into two classes: The upland soil produced by the weathering of glacial deposits, and the alluvial soils of the bottom lands. Miami silt loam, a brown, light brown, or grayish clay soil, adapted to the growing of wheat, fruit and truck, is the most extensive soil of the first group, covering somewhat more than two-thirds of the surface of the county. Clyde silty clay loam, the black soil of the sites of former ponds, marshes and small lakes,

¹ George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County* 324-25 (*Indiana Historical Collections*, vol. 19). Indiana State Planning Board, *Preliminary Survey of County Planning Problems in Indiana Counties* (typewritten, 1935-36; in Indiana State Library), Delaware County section. *Year Book of the State of Indiana for the Year 1926* (1937), 877.

² L. A. Hurst and E. J. Grimes, *Soil Survey of Delaware County* (U. S. Department of Agriculture, 1915), 8.

³ *Ibid.*, 5, 13.

covers about one-fifth of the area of the county. It is excellently adapted to the production of corn and yields good crops of oats and hay. The bottomlands with soils of varying composition make up about one-tenth of the area of the county. Its productive qualities are similar to the black soil of the upland.⁴

THE ABORIGINES AND EARLY INDIANA

The Indians most intimately identified with Delaware County were the Delaware for whom the county was named. Following their treaty with William Penn in 1682, they were gradually crowded westward by the Iroquois. About 1770 they were granted permission by the Piankashaw and the Miami to occupy the country between the Ohio and White Rivers.⁵ Their attitude toward white people was influenced by Moravian missions, one of which was located on White River, near the present site of Anderson, from 1801 to 1806.⁶ The Munsee, a branch of the Delaware for whom the city of Muncie was named, had a village on the present site of that city.⁷

Exploration of the region northwest of the Ohio River was begun by Marquette and Joliet and La Salle in the latter part of the seventeenth century. On the basis of these and other explorations France laid claim to the territory. During the first half of the eighteenth century the French established three trading posts in what is now Indiana: First, about 1715, "Post Miami" (Fort Wayne), at the head of the Maumee; second, about 1719 or 1720, a fort at Ouiatenon, on the Wabash, at the mouth of the Wea River, near Lafayette; and finally, before March 1733, a fort at Vincennes, on the lower Wabash. The British likewise laid claim to the territory and about the middle of the eighteenth century began to enter the Ohio Valley from the east. As a result of the French and Indian War,

⁴ *Ibid.*, 13-29.

⁵ F. W. Hodge, editor, *Handbook of American Indians North of Mexico* (1912), pt. 1:385-87.

⁶ J. P. Dunn, "The Moravian Mission near Anderson", *Indiana Magazine of History*, June 1913. L. H. Gipson, editor, "The Moravian Missions on White River", *Indiana Historical Collections*, vol. 23 (1938).

⁷ G. W. H. Kemper, *History of Delaware County, Indiana* (1908), 1:5, 11.

⁸ P. G. Roy, "Sieur de Vincennes Identified", *Indiana Historical Society Publications*, vol. 7, no. 1. M. M. Quaife, "Fort Wayne in 1790", *Indiana Historical Society Publications*, 7:301. O. J. Craig, "Ouiatanon", *Indiana Historical Society Publications*, vol. 2, no. 8. P. C. Phillips, "Vincennes in its Relation to French Colonial Policy", *Indiana Magazine of History*, December 1921.

which ended in 1763, the French lost their colonial empire in America and the Ohio country passed into the hands of Great Britain.⁸

During the American Revolution, General George Rogers Clark conquered the western country in 1778 and 1779, and the Virginia legislature, in December 1778, created the "County of Illinois" for the government of Virginia citizens residing on "the western side of the Ohio."⁹ At the close of the Revolution, the Ohio Valley was claimed by several of the states, upon the basis of their colonial charters from British monarchs. These claims were finally ceded to the United States, and by the Ordinance of 1787, Congress created the Northwest Territory for the government of the western country.¹⁰ A few months after the establishment of the territorial government, Knox County, comprising Indiana and parts of Ohio, Michigan, Wisconsin, and Illinois, was created (1790).¹¹ In 1800 Indiana Territory, with boundaries much more extensive than the present boundaries of the State of Indiana, was organized.¹² In 1816 Indiana, with approximately its present boundaries, was organized and admitted into the Union as a state.¹³

WHITE SETTLEMENT

The most formidable obstacle to the settlement of the western country was the opposition of the Indians who were encouraged and aided by the British at Detroit in 1790. Ably led by Little Turtle, the savages defeated an expedition under General Josiah Harmer on and near the present site of Fort Wayne and another under General Arthur St. Clair the following year, near the headwaters of the Wabash.¹⁴ In 1794 they were decisively beaten by General Anthony Wayne in the battle

⁹ W. W. Hening, *The Statutes at Large . . . of Virginia*, 9:552.

¹⁰ C. E. Carter, editor, *The Territorial Papers of the United States*, 2:3 et. seq. John G. Rauch and Nellie C. Armstrong, *A Bibliography of the Laws of Indiana, 1788-1927*, introduction.

¹¹ W. H. Smith, *The St. Clair Papers*, 2:166 note.

¹² *Annals of Congress*, 6th Congress, 1st Session, 1498.

¹³ For the enabling act see *Annals of Congress*, 14th Congress, 1st Session, 1841; for the resolution admitting Indiana to statehood, see the *Annals of Congress*, 14th Congress, 2nd Session, 1348.

¹⁴ Many details of the campaigns are given in *The St. Clair Papers*, edited by W. H. Smith. The official reports of the St. Clair expedition are in *American State Papers, Indian Affairs*, 1: 136. *A Narrative of the Campaign Against the Indians Under the Command of Major General St. Clair* (1812) is a defense of St. Clair.

of Fallen Timbers and were forced to sue for peace.¹⁵ By the treaty of Greenville, signed August 3, 1795, about half of Ohio and a small portion of Indiana were open to settlement.¹⁶ After this treaty, the Indians north of the Ohio were nominally at peace with the United States until 1811 when Tecumseh endeavored to form an Indian Confederacy to resist further encroachment by the white people on their lands culminated in the battle of Tippecanoe in which they were defeated by General William Henry Harrison.

With the surrender of Detroit to the Americans at the close of the War of 1812, further opposition by the Indians north of the Ohio was useless and their titles to lands in Indiana were rapidly extinguished. In 1818 the New Purchase, a large extent of territory south of the Wabash from which Delaware County and 31 other counties were formed, was acquired by treaties concluded with the Delaware and Miami at St. Mary's, Ohio.¹⁷

To facilitate the sale of land contained in the New Purchase, land offices were established at Terre Haute and Brookville in 1819.¹⁸ By provision of the same act the minimum price of land in the New Purchase was fixed at \$2 per acre.¹⁹ An act of Congress of April 24, 1820 provided for the sale of public land in 80-acre tracts at a minimum price of \$1.25 per acre. By the same act the credit system of payment for lands was abolished.²⁰ By an act of May 8, 1822, a land office was established at Fort Wayne.²¹ Most of the entries for land in Delaware County were made at that office.²²

By provision of the treaty at St. Mary's with the Delawares, half sections of land were granted to Isaac Wobby, Samuel Cassman, Elizabeth Petchaka, and Jacob Dick, and quarter sections to Solomon Tindell and Benoni Tindell, all Delaware Indians. By the treaty with the Miami, Rebecca Hackley

¹⁵ The papers of the Wayne campaign are printed in *American State Papers, Indian Affairs*, 1:487 et. seq.

¹⁶ "Treaties Between the U. S. and Indian Tribes", *The Public Statutes at Large of the U. S. A.*, 7:49-54. Charles J. Kappler, *Indian Affairs. Laws and Treaties*, 2:30-34 (printed as U. S. Senate Document No. 452, 57th Congress, 1st Session).

¹⁷ "Treaties between the U. S. and the Indian Tribes", *loc. cit.*, 7:188-92. Kappler, *op cit.*, 2:118-21.

¹⁸ *U. S. Statutes at Large*, 3:521.

¹⁹ *Ibid.*

²⁰ Thomas Donaldson, *The Public Domain* (1884), 205.

²¹ *U. S. Statutes at Large*, 3:701.

²² Kemper, *op cit.*, 1:17.

was granted a section of land "to be located at the Munsey town, on white river . . . where the bend assumes the shape of a horse shoe." Mrs. Hackley was a daughter of Captain William Wells and a granddaughter of Little Turtle. The Hackley reserve was later acquired by Goldsmith Gilbert.²³

The first entries of land in Delaware County were made by Uriah Bulla and David Hillis on October 24, 1822, both in Mt. Pleasant Township.²⁴ The tide of immigration to the county continued strong but as late as 1853 there was still public land within the county, as indicated by an order of the board of commissioners regulating its pasturage.²⁵

CREATION AND ORGANIZATION

The first Delaware County was created by the Indiana General Assembly on January 20, 1820. This huge "paper county"—extending from the Wabash River on the north to the northern boundary of the present Jackson County on the south and from the second principal meridian (the meridian of Lebanon) on the west to a point somewhat east of the present Delaware County—was never organized. Instead the surrounding counties were given concurrent jurisdiction over civil cases therein.²⁶

In a law of January 26, 1827, effective April 1 of that year, the Indiana legislature created a new Delaware County, from that portion of the unorganized Delaware County that had been attached to Randolph County. The boundaries of the new county were defined in the law:

"Beginning at the north east corner of Henry county, thence due north with the western boundary of Randolph to the north east [west] corner of section numbered eight, township No. twenty-two, north of range No. twelve east, thence west to the north east corner of section No. eleven, township No. twenty-two, north of range No. eight east, thence south to the north west corner of Henry county, and thence east with the northern boundary of said county to the place of beginning."²⁷

On February 13, 1827 the Governor of Indiana commissioned

²³ See footnote 17, above. See also F.D. Haimbaugh, *History of Delaware County, Indiana* (1924), 1:55-56.

²⁴ Haimbaugh, *op. cit.*, 1:89.

²⁵ Commissioners' Record, 6:188, see entry 1.

²⁶ Acts 1819-20, ch. 54, sec. 2. Pence and Armstrong, *op. cit.*, 222-23.

²⁷ Acts 1826-27, ch. 10.

Peter Nolin sheriff and ordered that a writ be issued for an election of county officials. Subsequently after the election the governor, on August 22, commissioned Jolin Rees and Lewis Rees, associate judges of the circuit court; William Van Matre, recorder and clerk of the circuit court; John D. Cox, coroner; and John E. Hodge, Benjamin Antrim and Nathan Bronson, justices of the peace. Cox refused to accept the coroner's office and on July 18, 1828 the governor appointed Thomas Thornburgh coroner.²⁸

In accordance with the law that prevailed at the time, the justices of the peace constituted the first board of justices, as the county board was then called. According to the law creating Delaware County, the first meeting of the board was to be held on the first Monday in August 1877.²⁹ However, the minutes of the board from 1827 to 1846 have been destroyed by fire. Details of the formation of townships are, therefore, not available. There are now 12 townships in Delaware County: Center, Delaware, Hamilton, Harrison, Liberty, Monroe, Mount Pleasant, Niles, Perry, Salem, Union, and Washington.³⁰

The state commissioners, chosen by the legislature to select a seat of justice for Delaware County, were required to meet at the home of Goldsmith Gilbert on the second Monday of June 1827.³¹ In consideration of the selection of Muncietown, Goldsmith Gilbert, Lemuel G. Jackson and William Brown agreed to donate land for the sites of public buildings and for other purposes.³²

EARLY HISTORY OF MUNCIE

Munsee town, Munseytown, and Muncietown, as it was variously spelled, was formerly a village of the Munsee Indians.³³ By an act of the general assembly of 1845 the name Muncie was adopted.³⁴ Two years later, Muncie was incorporated as a town.³⁵ In 1865 it was incorporated as a city.³⁶

²⁸ Executive Proceedings, 1823-36, Delaware County section.

²⁹ Acts 1826-27, ch. 10, sec. 6.

³⁰ *Year Book of the State of Indiana for the Year 1936* (1937), 877.

³¹ Acts 1826-27, ch. 10, sec. 3.

³² Kemper, *op. cit.*, 1:58.

³³ Haimbaugh, *op. cit.*, 1:69.

³⁴ Acts 1844-45, (local), ch. 262, sec. 1.

³⁵ Acts 1846-47 (local), ch. 239.

³⁶ Haimbaugh, *op. cit.*, 1:440-41.

The town as it existed in 1846 was described by David Gharky in his diary:

"The principal streets are 45 and the alleys 10 feet in width. The lots are 125 ft. long and 62½ ft. wide. It contains about 600 inhabitants; a superb courthouse and jail; a handsome seminary, with an accomplished teacher of different languages and sciences; a printing and post office; a Presbyterian and Methodist Church; a flouring and saw mill; a wool carding and fulling machine; four taverns; eight mercantile and two drug stores; two groceries and a proportionable number of mechanics of different descriptions—some large brick buildings for mercantile purposes."³⁷

A copy of the *Muncie Journal* of the year 1846 gives us an insight into the activities and conditions of the pioneer town: David Kilgore and William F. Brady had associated themselves in the practice of law in the circuit and probate courts of Delaware County and would give proper attention to all business entrusted to them. Dr. John A. Clark had resumed the practice of his profession and would receive thankfully the calls of those desiring his services. Thomas S. Neely manufactured and sold all sizes and qualities of plows. Cattle on the Cincinnati market ranged from \$2.56¼ for grass-fed to \$3.75 for corn-fed cattle. Hogs ranged from \$3.50 to \$4.28 depending on size and quality. Wheat sold for 75 cents and corn from 33 to 35 cents. Notes of the Indiana Bank and its branches were quoted at par. The mails arrived from Indianapolis every Monday and Friday at 4 p. m. and departed the same day. The weather had alternated during the last few weeks from the severest winter to the mildest spring.³⁸

EARLY LEGISLATION AFFECTING THE COUNTY

By an act of the Indiana legislature of January 17, 1820, the West Fork of White River was declared a public highway to the Delaware towns.³⁹ In a law of January 23, 1827 the Mississinewa River was declared a public highway from its mouth to Lewallene's Mill in Randolph County.⁴⁰ By an act of January 19, 1829, David Stout was permitted to build a dam

³⁷ David Gharky, *The Life of David Gharky as Written by Himself*, (1852), 210.

³⁸ *The Muncie Journal*, January 31, 1846.

³⁹ Acts 1819-20, ch. 32, sec. 1.

⁴⁰ Acts 1826-27, ch. 40, sec. 1.

across the West Fork of White River.⁴¹ A law of January 30, 1830 stipulated that the militia of Delaware County should constitute a regiment and was to be attached to the eighteenth brigade.⁴² An act of February 6, 1836 exempted Jacob Moscow and his son, James, of Muncie from the application of the law forbidding the sale of intoxicating liquors to Indians.⁴³ In a law of February 2, 1843, James L. Russey, Joshua R. Lockwood, O. H. P. Kennedy, Alexander Sackett, Mark Walling, Matthew W. Jack, F. E. Putnam, Godless Luik, E. J. Fisher, Enst Guenin and their associates and successors were "constituted and declared to be a body politic and corporate by the name and style of the Muncietown Band of Musicians . . ." ⁴⁴

ROADS

By an act of the Indiana legislature of January 9, 1830, Thomas Craner of Wayne County was appointed commissioner to locate and open a state road from Richmond to Logansport by way of Murcie.⁴⁵ In a law of February 2, 1832 a road from Muncie to Pendleton was provided for.⁴⁶ An act approved the next day provided for a road from Muncie to intersect the road from Anderson to Fort Wayne.⁴⁷ In 1833 provision was made for a road from Muncie to Delphi and another from Muncie to New Castle.⁴⁸ An act of the following year provided for a road from Muncie to Fort Wayne.⁴⁹ By acts of later date other state roads through Delaware County were provided for. We do not know, however, how many of these roads were built.

Scattered throughout the Commissioners' Record of Delaware County are numerous entries which indicate the extent to which the county was occupied with the question of roads. In March 1847 a petition was presented for a road from the Burgess sugar camp to the Logansport road.⁵⁰ At the same session Aaron Moore, Isaac Freeman, and Joseph Williams re-

⁴¹ Acts 1828-29, ch. 45, sec. 4.

⁴² Acts 1829-30, ch. 50.

⁴³ Acts 1835-36 (general), ch. 45.

⁴⁴ Acts 1842-43 (local), ch. 26.

⁴⁵ Acts 1829-30, ch. 73, sec. 8.

⁴⁶ Acts 1831-32, ch. 76.

⁴⁷ *Ibid.*, ch. 78.

⁴⁸ Acts 1832-33, chs. 173, 176.

⁴⁹ Acts 1833-34, ch. 181.

⁵⁰ Commissioners' Record, 5:70.

ported that they had "viewed, marked, and laid out" the road for which they had been appointed and deemed it of public utility. The board of commissioners "being satisfied that all the requisites of the statute had been complied within the premises," ordered that the road be a public highway and directed that "the hands and supervisors through whose district the same may pass forthwith and thereafter keep in repair said road to the width of forty feet."⁵¹

William Black and Joseph Stafford, on the other hand, reported that the road which they had been assigned to view was not of public utility, and the board, being satisfied that all the requisites of the statute had been complied with, ordered "that further proceedings in the premises be dismissed and that the petitioners pay all cost of the viewing the same and otherwise."⁵²

All males were required by law to assist in road maintenance unless excused from such duty by the board of commissioners.⁵³ In the minutes of the board one finds, for example, that Bazzell Clements and Nicholas Pence were excused from working the roads and paying poll tax, the former by reason of a "decay of the shoulder" and the latter because of "bodily infirmity."⁵⁴

In 1850 an era of toll roads began. Agitation to purchase the toll pikes, with a view to the substitution of free public roads, began soon afterwards. Some of the townships became so excited about free roads that they considered secession from the county. On October 20, 1883 the county voted to buy the pikes.⁵⁵

RAILROAD BUILDING

On February 17, 1848 the Indianapolis and Bellefontaine Railroad was incorporated.⁵⁶ An election on the question of whether the county should subscribe to the stock of the road resulted in 594 votes being cast in the affirmative and 244 in the negative. In June 1849 the commissioners voted a subscription of \$12,000 to the stock, one-fourth to be paid when

⁵¹ *Ibid.*, 71.

⁵² *Ibid.*

⁵³ Acts 1816-17 (general), ch. 8, sec. 10.

⁵⁴ Commissioners' Record, 5:69.

⁵⁵ Kemper, *op. cit.*, 1:85-89.

⁵⁶ Acts 1847-48 (local), ch. 94.

the road was cleared and grubbed from Indianapolis to the eastern boundary of Delaware County, one-fourth when graded and bridged over the same distance, and the remainder when the road was completed between these points. The sum of 28 cents on every one hundred dollars valuation was ordered assessed.⁵⁷ At the request of the company, the commissioners paid \$2,000 in advance in May 1850, and \$1,000 on each of the following dates: November 1, 1850; January 1, 1851; April 1, 1851. The last installment was paid in June 1852.⁵⁸

In 1852 the road was completed to Muncie. The progress of the road in the vicinity was indicated by F. E. Putnam, a pioneer citizen of Delaware County, in his diary:

"May 28, 1852: cars close to town.

"May 29: Dinner at Hoon's and Davis's for railroad hands.

"May 31: Passenger cars up for the first time.

"June 17: Warm and cloudy in the morning with heavy showers in the eve. Railroad celebration and lots of people in town, say seven thousand. Five trains down and six up and one to York [Yorktown] and back. Sample made reception speech and Smith [O. H. Smith,] president of the road replied."⁵⁹

In December 1853 a petition was presented to the board of commissioners requesting that the stock owned by the county in the Indianapolis and Bellefontaine Railroad be exchanged for stock in the Fort Wayne and Southern Railroad. The board ordered that the stock be equally divided between the Fort Wayne and Southern and the Cincinnati, New Castle and Washington railroads. W. J. Coleman was appointed agent to make the transfer.⁶⁰

Following its completion, the Indianapolis and Bellefontaine Railroad was subjected to a series of consolidations with other roads which culminated in its incorporation in the Big Four System in 1889.⁶¹ In addition to the Big Four, Delaware County is served at the present time by the Chesapeake and Ohio, the Pennsylvania, the Nickel Plate, and the Indiana (electric) Railroad.

⁵⁷ Ared M. Murphy, "The Big Four Railroad in Indiana", *Indiana Magazine of History*, June 1925.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ Commissioners' Record, 6:210.

⁶¹ Murphy, *loc. cit.*

BUSINESS REGULATIONS

To operate certain businesses, licenses were required. For a license to vend clocks in the county \$15 was charged.⁶² George Lyman and Company paid \$5 to vend "foreign and domestic merchandise, drugs and groceries" for one year.⁶³ In June 1846 the board of commissioners issued a license (for the sum of \$20), to Minus Turner to keep a tavern in Muncie for one year, the said Turner "having produced to the board his petition signed by a majority of the citizens [voters] of Centre township as directed by law."⁶⁴

With the intention of improving the livestock of the county the board of commissioners on June 10, 1853 ordered "that the following kinds of animals be suffered to run at large and pasture on the unenclosed lands and public commons within the bounds of the several townships of the county: all mares, geldings of the horse and mule kind at any age and all young horses and mules under one year old, all cows, steers and heifers of any age and male pigs until three months old. All ewes and wethers of the sheep kind at any age and male lambs until six months old."⁶⁵

SOCIAL WELFARE

In accordance with an early law, individuals who had become public charges were entrusted to the care of individuals who bid the lowest at "public vendue or outcry."⁶⁶ On May 15, 1848 Aaron Mote and Thomas Housekeeper, overseers of the poor in Union Township, certified that after due notice they had farmed out Catherine Elliot at public vendue to Peter Shidler for one year for \$47.50.⁶⁷ Similarly, Lucinda and Abram Dilly were farmed to Margaret Watson for one year for \$42.⁶⁸ By order of the board the amount paid for a coffin for a pauper was not to exceed \$5.⁶⁹

⁶² Commissioners' Record, 5:11.

⁶³ *Ibid.*, 128.

⁶⁴ *Ibid.*, 12.

⁶⁵ *Ibid.*, 6:188.

⁶⁶ Acts 1817-18, ch. 14, sec. 3.

⁶⁷ Commissioners' Record, 5:170.

⁶⁸ *Ibid.*, 82.

⁶⁹ *Ibid.*, 178.

As early as 1852 a county farm was operated, as indicated by the quarterly report of its superintendent, Samuel D. Andrews.⁷⁰ For the following year George N. Hornbaker was hired to superintend the farm for one year for \$200, the board agreeing to furnish the necessary provisions for Hornbaker and his family and the inmates of the farm. At the same session the board appointed Jeremiah Dynes and Company county physicians for one year. For the sum of \$40 the physicians agreed to visit the farm at least once every two weeks and to render such medical service as the inmates might require.⁷¹

In December 1853 the county farm was leased to Enoch Ebright for three years. Ebright agreed to pay the county \$180 per year and to care for, feed and to treat properly the inmates, and to keep the farm in good repair. The board agreed to pay Ebright \$114 per year for each inmate of the farm except the child of Nancy McFarland for the care of which he was to receive \$1 per week.⁷² This arrangement proved satisfactory for in September following, the board having visited the farm, reported "quite an improvement in the farm operations and the farm itself much improved."⁷³

In 1933 the United States Government inaugurated a program of direct and work relief to supplement existing facilities.

EDUCATION

The county seminary was established in 1841. The first trustees were B. F. Haycock, Samuel G. Campbell and John Jack. The site for the building was donated by George W. Gant [Garst] and donations of money were made by citizens.⁷⁴ The building was not completed before 1846.⁷⁵ The annual report of the county auditor for the year ending March 1, 1847 gave \$2,219.60 as the cost of the building, the cost of the site, \$130, and incidental costs \$119.45, a total of \$2,469.05.⁷⁶

⁷⁰ *Ibid.*, 6:47.

⁷¹ *Ibid.*, 55.

⁷² *Ibid.*, 222.

⁷³ *Ibid.*, 247.

⁷⁴ Report of the Superintendent of Public Instruction of the State of Indiana, 1878, pp. 384, 385.

Haimbaugh, *op. cit.*, 1:313. W. J. Wakefield, "County Seminaries in Indiana", *Indiana Magazine of History*, June 1915.

⁷⁵ Haimbaugh, *op. cit.*, 1:313-14.

⁷⁶ Commissioners' Record, 5:62-63.

During the spring session of 1846, 93 students were in attendance.⁷⁷

In 1851 the seminary board advertised that an effort would be made to procure apparatus, both philosophical and chemical, and to effect other improvements in the school designed to promote the welfare and advancement of the students. The tuition for the term which opened on the last Monday in December 1850 was \$2.25 for orthography, reading, writing, and mental arithmetic; \$3.75 for English, grammar, arithmetic, history and geography; \$5.00 for mensuration, plain and spherical trigonometry and philosophy; and \$6.25 for chemistry, botany, surveying, navigation, analytical geometry, differential and integral calculus, mineralogy, geology, astronomy, Latin and Greek languages. Board could be had on the most reasonable terms. All incidental expenses of the students were to be borne by the parents.⁷⁸

A law approved June 12, 1852 provided for the sale of all county seminaries throughout the state.⁷⁹ The Delaware County seminary was sold some time prior to the December term of that year, for during that term the board of commissioners ordered that in accordance with a provision of the law various individuals be allowed sums which they had contributed to the school.⁸⁰

By this time the common schools were acquiring a firm foundation. On June 1, 1853 the common school fund of the county amounted to \$26,441.10.⁸¹ By 1881 the county had 129 school houses. Of these 50 were frame houses and 79 were brick. During the year 1879-80, 171 teachers were employed in the county.⁸²

In 1896 the Eastern Indiana Normal University Association was organized at Muncie "to establish and maintain at or near Muncie, Indiana, a normal university for the education of males or females." In 1899 the school opened with F. A. Z. Kumler in charge. It closed again in 1901 but opened in 1905 under the name of Palmer Institute.⁸³ The

⁷⁷ Haimbaugh, *op. cit.*, 1:314.

⁷⁸ *Muncie Whig Banner*, January 18, 1851,

⁷⁹ 1 Rev. Stat. 1852, ch. 97.

⁸⁰ Commissioners' Record, 6:251.

⁸¹ *Ibid.*, 190.

⁸² T. B. Helm, *History of Delaware County, Indiana* (1881), 58.

⁸³ Haimbaugh, *op. cit.*, 1:333-34.

following year it operated as the Indiana Normal School under the presidency of Francis M. Ingler.⁸⁴

In 1911 the Muncie Normal Institute was formed by the amalgamation of the Marion Normal College and Business University, the National Manual Training Corporation, the Indiana Manual Training Company, the Muncie Conservatory of Music, and the Eastern Indiana Normal School University.⁸⁵ In 1918 the Ball Brothers, Muncie manufacturers, donated the property which had lately come into their possession, to the state of Indiana and in June of that year the Indiana State Normal School, Eastern Division, opened with an enrollment of 383 students.⁸⁶ By an act of the Indiana state legislature of May 7, 1929 the school was given a separate organization under the name Ball State Teachers College.⁸⁷

THE COUNTY LIBRARY

By provision of the Indiana Constitution of 1816, 10 percent of the proceeds derived from the sale of lots in the seats of justice of the various counties was reserved for the establishment of county libraries.⁸⁸ The library established in Delaware County under this provision was maintained in an upper room of the courthouse.⁸⁹ A few entries in the Commissioners' Record supply the only known information concerning it. In June 1847 the board of commissioners ordered that Walter March, Charles Williams and Frederic Putnam select suitable books to be purchased by the library.⁹⁰ An entry of a later date indicates that \$85 had been expended for this purpose.⁹¹ At its June session, 1846, the board ordered that "[no name] serve as librarian to fill the vacancy occasioned by the expiration of the term of the present librarian."⁹² The next year James Hodge agreed to serve as librarian free of charge. He was directed by the board to charge 25 cents

⁸⁴ *Indiana Normal School Catalogue, 1906-1907.*

⁸⁵ *Muncie Normal Institute Catalogue, 1913-1914*, p. 13.

⁸⁶ *Ball State Teachers' College Catalogue, 1938-1940*, p. 25.

⁸⁷ Acts 1929, ch. 38, sec. 3.

⁸⁸ Const. 1816, art. 9, sec. 5.

⁸⁹ Haimbaugh, *op. cit.*, 1:336.

⁹⁰ Commissioners' Record, 5:93.

⁹¹ *Ibid.*, 160.

⁹² *Ibid.*, 93.

instead of 50 cents for the use of the library.⁹³ In the 1850's township libraries, stocked by the state, were established,⁹⁴ and county libraries disappeared. We do not know precisely when the county library in Delaware County ceased to exist, but it was apparently before 1857.⁹⁵

GAS AND OIL

In 1876 a well was bored at Eaton to a depth of 600 feet from which a flow of gas sufficient to produce a flame two feet in height was obtained. Little attention was paid to it at the time but when gas was discovered at Findlay and other points in Ohio, the well was remembered.⁹⁶ In 1886 the first well of commercial importance was drilled at Eaton.⁹⁷ From this time the development of the gas and oil industries was rapid, reaching its maximum in 1904 when the 831 producing wells of the county had an average output of 44.4 barrels each per day. The output for the year was 13 million barrels.⁹⁸ By October 1905 only 13 of the 49 oil and gas companies and promoters listed in the city directory of Muncie in 1904 were in existence.⁹⁹ By 1920, 1,500 wells had been abandoned. The reasons assigned for the decline were low prices, too many small companies, and decline of production due to exhaustion and injury to wells by water.¹⁰⁰ In recent years the county's economic development has been through normal rather than "boom" channels.

DELAWARE COUNTY TODAY

From a population of 8,843 in 1840,¹⁰¹ Delaware County grew to 67,270 in 1930. Of the 1930 population 34,198 were males and 33,072 were females.¹⁰² Of the 64,545 white people

⁹³ *Ibid.*, 90.

⁹⁴ 1 Rev. Stat. 1852, ch. 98.

⁹⁵ Commissioners' Record, 6:426.

⁹⁶ *Indiana Geological Report*, 1886, p. 321.

⁹⁷ W. N. Logan, *Petroleum and Natural Gas in Indiana* (1920), 88.

⁹⁸ *Indiana Geological Report*, 1908, p. 366.

⁹⁹ *Ibid.*, 1905, p. 1170. Indiana State Planning Board, *op. cit.*

¹⁰⁰ Logan, *op. cit.*, 85.

¹⁰¹ *Compendium of the Enumeration of the Inhabitants and Statistics of the United States, as Obtained . . . from the Returns of the Sixth Census: 1840*, p. 82.

¹⁰² *Fifteenth Census of the United States: 1930, Population*, 3:pt. 1:693.

of the county, 60,987 were of native parentage, 2,852 of foreign-born or mixed parentage, and 706 foreign-born. There were 2,678 negroes.¹⁰³ The urban population numbered 46,548 and the rural population, 20,722.¹⁰⁴

Of the 2,639 farms of the county 1,345 were operated by the owner, 433 by part owners, 16 by managers, 161 by cash tenants, and 684 by tenants of some other type. The average size of the farm was 87.5 acres.¹⁰⁵ The total value of the farm crop in 1929 was \$2,536,280, the total value of the live stock products for the same year was \$892,265, and the total value of the livestock on hand on April 1, 1930 was \$2,831,116.¹⁰⁶ The total value of all the farms of the county, including buildings, was \$22,070,359; of the buildings alone, \$7,416,660; of the farm dwellings, \$4,288,250; of the farm implements and machinery, \$1,144,401.¹⁰⁷

2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

LEGAL STATUS OF THE COUNTY

The county in Indiana is an involuntary corporation, organized by the Indiana General Assembly as a political subdivision of the state, solely for governmental purposes. It is an instrumentality of government, exercising the powers delegated by the state and acting for the state. County officers are but agents of the state. The authority of the county and its officers and agents is limited to that expressly or impliedly conferred on them by the general assembly. Except as limited by the constitution, the general assembly has full power to create, modify, and abolish counties, and to prescribe their powers, governmental organization, and liabilities.¹

Before the adoption of the Constitution of 1851 the legislature had full power to enact local or special laws concern-

¹⁰³ *Ibid.*, 733.

¹⁰⁴ *Ibid.*, 704.

¹⁰⁵ *Ibid.*, *Agriculture*, 2:pt. 1:485.

¹⁰⁶ *Ibid.*, 547

¹⁰⁷ *Ibid.*, 170.

¹ Gavin v. Board of County Comrs. (1885), 104 Ind. 201, 3 N. E. 846; Applegate v. Pettijohn (1933), 205 Ind. 122, 125, 185 N. E. 911; McDermott v. Board of County Comrs. (1915), 60 Ind. App. 209, 110 N. E. 237; Buck v. Indiana Constr. Co. (1923), 79 Ind. App. 329, 138 N. E. 356.

ing county matters, and many such laws were enacted; but since 1851 there have been constitutional provisions prohibiting the enactment of local or special laws concerning several specified subjects affecting county organization and functions.² The general assembly often passes laws applicable to counties and cities having a specified population and to counties containing cities of a specified population. Such laws are sometimes upheld³ and sometimes held void as being in conflict with said constitutional provisions.⁴ Laws made applicable to localities having property of specified assessed valuation have been upheld.⁵ Sometimes a law affecting county organization or functions provides that it shall become operative in any county when approved by the voters or the board of commissioners of that county. The offices and courts created by the constitution exist in every county, but there is variation as to offices, boards, agencies, and courts created by statute.

The county system of government is an inheritance from England and the American colonies, whence pioneers brought their customs and laws. Its beginnings in Indiana are found in the Ordinance of 1787, enacted by Congress for the government of the territory of the United States northwest of the Ohio River; in an act of Congress of May 7, 1800, creating Indiana Territory; and in the laws of the Northwest Territory, 1788-1800, and of the Indiana Territory, 1805-15, enacted by the territorial general assemblies.

In 1781, 1784, 1785, and 1786, New York, Virginia, Massachusetts, and Connecticut ceded to the United States their claims to all the land north of the Ohio River, comprising

² Const., art. 4, secs. 22, 23.

³ State *ex rel.* Hargrave v. Reitz (1878), 62 Ind. 159; Campbell v. Indianapolis (1900), 155 Ind. 186, 57 N. E. 920; Bullock v. Robison (1911), 176 Ind. 198, 93 N. E. 998; Wayne Twp. v. Brown (1933), 205 Ind. 437, 186 N. E. 841; Meara v. Brindley (1935), 207 Ind. 657, 194 N. E. 351; Groves v. Board of County Comrs. (1936), 209 Ind. 371, 199 N. E. 137; Crowe v. Board of County Comrs. (1936), 210 Ind. 404, 3 N. E. (2d) 76; Board of County Comrs. v. Crowe (1938),—Ind.—, 14 N. E. (2d) 907.

⁴ Campbell v. Indianapolis (1900), 155 Ind. 186, 57 N. E. 920; Rushville v. Hayes (1904), 162 Ind. 193, 70 N. E. 134; Bumb v. Evansville (1907), 163 Ind. 272, 80 N. E. 625; Kraus v. Lehman (1908), 170 Ind. 403, 83 N. E. 714; Bullock v. Robison (1911), 176 Ind. 198, 93 N. E. 998; Boberg v. Harlem (1924), 194 Ind. 310, 142 N. E. 705; Heffelfinger v. Fort Wayne (1925), 196 Ind. 689, 149 N. E. 555; Heckler v. Conter (1933), 206 Ind. 376, 187 N. E. 878; Crowe v. Board of County Comrs. (1936), 210 Ind. 404, 3 N. E. (2d) 76.

⁵ Gruber v. State *ex rel.* Welliver (1925), 196 Ind. 436, 143 N. E. 481; Board of County Comrs. v. Crowe (1938),—Ind.—, 14 N. E. (2d) 903.

the present states of Indiana, Illinois, Michigan, Ohio, Wisconsin, and part of the present state of Minnesota. This land became known as the Northwest Territory.⁶

The Ordinance of 1787 authorized the creation of counties by proclamation of the governor until the organization of the territorial general assembly, and thereafter by the latter;⁷ and this authority was continued by the act of Congress creating Indiana Territory.⁸

The Governor of the Northwest Territory, by proclamation of June 20, 1790, created Knox County, embracing all of what is now the state of Indiana (as well as parts of Illinois, Michigan, Ohio, and Wisconsin).⁹

By an act of May 7, 1800, effective July 4, 1800, Congress divided the Northwest Territory into two parts, the Eastern Division and the Western Division. The eastern boundary line of the Western Division extended from the Ohio River opposite the mouth of the Kentucky River (through the present Indiana counties of Switzerland, Ohio, Dearborn, Franklin, Union, Wayne, Randolph, and Jay; and through the present Ohio county of Mercer) to Fort Recovery, and thence north (through the present Ohio counties of Mercer, Van Wert, Paulding, Defiance, and Williams; and through the present State of Michigan) to the boundary line between the United States and Canada. By this act the said Western Division of the Northwest Territory became Indiana Territory. By an act of Congress of April 30, 1802 (the enabling act for the formation of the State of Ohio), the present north and west boundaries of the State of Ohio were established; and all the land previously included in the Eastern Division of the Northwest Territory and not retained by said act for the State of Ohio was transferred to Indiana Territory.¹⁰

By an act of January 11, 1805, effective June 30, 1805, Congress created Michigan Territory out of all that part of Indiana Territory north of a line drawn east from the southerly extreme of Lake Michigan to Lake Erie, and lying east of a line drawn from said southerly extreme of Lake Michigan

⁶ Clarence E. Carter, editor, *The Territorial Papers of the United States*, 2:3 *et seq.*

⁷ Laws N. W. Terr., 125.

⁸ *U. S. Statutes at Large*, 2:58.

⁹ William Henry Smith, editor, *The St. Clair Papers*, 2:166 note. George Pence and Nellie

C. Armstrong, *Indiana Boundaries: Territory, State and County* (1933), 21, 514, 515.

¹⁰ *U. S. Statutes at Large*, 2:58, 59, 173-175, 201, 202. Pence and Armstrong, *op. cit.*, 140, 141.

Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

through the middle of said lake to its northern extremity and thence due north to the northern boundary of the United States. By said act the southern boundary line of Michigan Territory was placed about 10 miles south of the present northern boundary line of the state of Indiana, and passed through the present Indiana counties of Lake, Porter, La Porte, St. Joseph, Elkhart, LaGrange, and Steuben. An act of Congress of April 19, 1816 (the enabling act for the admission of Indiana into the Union) established the present northern boundary line of Indiana.¹¹

By an act of February 3, 1809, effective March 1, 1809, Congress created Illinois Territory out of "all that part of the Indiana Territory which lies west of the Wabash River, and a direct line drawn from said Wabash River and Post Vincennes, due north to the territorial line between the United States and Canada." This act created the present western boundary line of the state of Indiana, but it was not until 1823 that the actual boundary line under this act was settled by the general assemblies of Illinois and Indiana.¹²

The Ohio River is the southern boundary of Indiana, and was the southern boundary of the same area when included in Northwest Territory and Indiana Territory.¹³ Indiana, with its present boundaries, was admitted into the Union by a resolution of Congress of December 11, 1816, pursuant to the enabling act of April 19, 1816.¹⁴

There are 92 counties in Indiana. Knox County, the oldest, was created by proclamation of the Governor of the Northwest Territory on June 20, 1790.¹⁵ The counties of Clark¹⁶ and Dearborn¹⁷ were created on February 3, 1801 and March 7, 1803, respectively, by proclamation of the Governor of Indiana Territory. The counties of Franklin,¹⁸ Gibson,¹⁹

¹¹ U. S. Statutes at Large, 2:309, 310; 3:289-291, 399, 400. Pence and Armstrong, *op. cit.*, 142, 143, 147. Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

¹² U. S. Statutes at Large, 2:514, 515. Pence and Armstrong, *op. cit.*, 12, 13, 144, 145. Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

¹³ Ordinance of 1787. U. S. Statutes at Large, 2:58, 59, 173, 174. 3:289, 399, 400. Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

¹⁴ U. S. Statutes at Large, 3:289-291, 399, 400. Const. 1816, art. 11, sec. 17. Const., art. 14, secs. 1, 2.

¹⁵ William Henry Smith, *op. cit.*, 2:166 note.

¹⁶ Pence and Armstrong, *op. cit.*, 256.

¹⁷ *Ibid.*, 310.

¹⁸ Acts 1810, ch. 6.

¹⁹ Acts 1813, ch. 23.

Harrison,²⁰ Jackson,²¹ Jefferson,²² Orange,²³ Perry,²⁴ Posey,²⁵ Switzerland,²⁶ Warrick,²⁷ Washington,²⁸ and Wayne²⁹ were created by special acts of the General Assembly of Indiana Territory. These 15 counties are all mentioned in the Constitution of 1816.³⁰ The remaining 77 counties were created by special acts of the Indiana legislature.

The Constitution of 1816 provided: "The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles."³¹ The Constitution of 1816 further provided that "The General Assembly, at the time they lay off a new county," shall provide certain funds for a public library.³² The Constitution of 1851 provides: "No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced."³³ The Constitution of 1851 further provides: "The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided."³⁴ The Constitution of 1851 provides that a new county may be created out of the counties of Perry and Spencer if approved by election of the voters in those counties in such manner as may be prescribed by law;³⁵ but no such new county has been created. These are all of the constitutional provisions concerning the creation of counties in Indiana.

The legislature passed a general law in 1861 providing

²⁰ Acts 1808, ch. 1.

²¹ Acts 1815, ch. 1.

²² Acts 1810, ch. 2.

²³ Acts 1812, ch. 12.

²⁴ Acts 1814, ch. 7.

²⁵ *Ibid.*

²⁶ *Ibid.*, ch. 9.

²⁷ Acts 1813, ch. 23.

²⁸ Acts 1813-14, ch. 10.

²⁹ Acts 1810, ch. 1.

³⁰ Const. 1816, art. 12, sec. 9.

³¹ Const. 1816, art. 11, sec. 12.

³² *Ibid.*, art. 9, sec. 5.

³³ Const., art. 15, sec. 7.

³⁴ *Ibid.*, art. 4, sec. 2.

³⁵ *Ibid.*, schedule, par. 15.

for the creation of new counties by election in the affected old counties after petition has been presented to the boards of commissioners in the several counties which would be affected by the proposal.³⁶ No new counties have been created since the enactment of this law.

STRUCTURAL DEVELOPMENT OF COUNTY GOVERNMENT

Delaware County, composed of lands previously within old Delaware County (New Purchase) and attached to Randolph County, was created by an act of the general assembly, approved by the governor on January 26, 1827, effective April 1, 1827.³⁷ In June 1827 the county seat was located at Muncie, where it has ever since remained.³⁸

Indiana has had two constitutions: The Constitution of 1816 and the Constitution of 1851. The General Assembly of Indiana has enacted laws in the form of a code on five occasions: The *Revised Laws of 1824*, the *Revised Laws of 1831*, the *Revised Statutes of 1838*, the *Revised Statutes of 1843*, and the *Revised Statutes of 1852*. The *Revised Statutes of 1852*, which became effective on May 6, 1853 as an official code, repealed, with certain specified reservations, all laws except those re-enacted in the code.³⁹ The *Revised Statutes of 1831*, were prepared under statutory authority, but were never enacted into law by the general assembly.⁴⁰

The Constitution of 1816 provided for the following officers and court in each county: Clerk of the circuit court,⁴¹ coroner,⁴² recorder,⁴³ sheriff,⁴⁴ and a circuit court composed of one president judge for the circuit and two associate judges for the county.⁴⁵ The Constitution of 1816 further provided

³⁶ Acts 1861; Burns 26-301 to 26-310; Baldwin 5044 to 5053.

³⁷ Acts 1817-18 (local), ch. 8. Acts 1819-20, ch. 54, sec. 2. Acts 1826-27, ch. 10. Pence and Armstrong, *op. cit.*, 168, 222, 324. See also Historical Sketch in Part A-1 of this book.

³⁸ Pence and Armstrong, *op. cit.*, 324. Acts 1844-45 (local), ch. 262, sec. 1. See also Historical Sketch in Part A-1 of this book.

³⁹ Const., art. 7, sec. 20. Acts 1851-52, chs. 44, 63. 1 Rev. Stat. 1852, p. xv; ch. 92. 2 Rev. Stat. 1852, p. vii. Acts 1853, ch. 105. Jones v. Cavins (1853), 4 Ind. 305.

⁴⁰ Acts 1879, ch. 90. Acts 1881, ch. 31. Acts 1881 (Spec. Sess.), ch. 94. Acts 1883, ch. 21.

⁴¹ Const. 1816, art. 5, secs. 8-10; art. 11, sec. 10.

⁴² *Ibid.*, art. 4, sec. 25; art. 12, sec. 8.

⁴³ *Ibid.*, art. 11, sec. 10.

⁴⁴ *Ibid.*, art. 4, sec. 25; art. 12, sec. 8.

⁴⁵ *Ibid.*, art. 5, secs. 1-7.

that the general assembly could create other offices⁴⁶ and courts.⁴⁷ All territorial laws, in force at the time of the adoption of the Constitution of 1816 and not inconsistent therewith, were continued in force until they expired or were repealed.⁴⁸

The Constitution of 1851 provided for the following officers and court in each county: Auditor,⁴⁹ clerk of the circuit court,⁵⁰ coroner,⁵¹ recorder,⁵² sheriff,⁵³ surveyor,⁵⁴ treasurer,⁵⁵ and a circuit court composed of one judge elected by the voters of the judicial circuit—the state to be divided into judicial circuits by the general assembly.⁵⁶ The constitution further provided for a prosecuting attorney for each judicial circuit;⁵⁷ and it authorized the general assembly to create a tribunal of conciliation,⁵⁸ other courts,⁵⁹ and other county offices.⁶⁰ The Constitution of 1851 further provided: "The General Assembly may confer upon the boards doing county business in the several counties, powers of a local, administrative character."⁶¹

Since the organization of Delaware County in 1827,⁶² the following officers, boards, and courts (arranged alphabetically in three groups) have existed in the county: Appraiser (1841 to 1872),⁶³ auditor (1841 to date),⁶⁴ clerk of the circuit court (1827 to date),⁶⁵ coroner (1827 to date),⁶⁶ county agent

⁴⁶ *Ibid.*, art. 4, sec. 8.

⁴⁷ *Ibid.*, art. 5, sec. 1.

⁴⁸ *Ibid.*, art. 12, sec. 4.

⁴⁹ Const., art. 2, sec. 9; art. 6, sec. 2.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, art. 6, sec. 2.

⁵² *Ibid.*, art. 2, sec. 9; art. 6, sec. 2.

⁵³ *Ibid.*, art. 6, sec. 2.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*, art. 7, secs. 1, 8-10, 12, 13.

⁵⁷ *Ibid.*, art. 7, secs. 11, 12.

⁵⁸ *Ibid.*, art. 7, sec. 19.

⁵⁹ *Ibid.*, art. 7, sec. 7.

⁶⁰ *Ibid.*, art. 6, sec. 3.

⁶¹ *Ibid.*, sec. 10. See the essays entitled "Board of Commissioners" and "County Council."

⁶² Acts 1826-27, ch. 10.

⁶³ See the essay entitled "County Assessor."

⁶⁴ See the essay entitled "Auditor."

⁶⁵ See the essay entitled "Clerk of the Circuit Court."

⁶⁶ See the essay entitled "Coroner."

(1827 to 1852),⁶⁷ county agricultural agent (1914 to date),⁶⁸ county assessor (1827 to 1852, 1872 to 1875, 1891 to date),⁶⁹ county health officer (1881 to date),⁷⁰ county highway supervisor (1933 to date),⁷¹ county superintendent of schools (1873 to date),⁷² lister (1827 to 1841),⁷³ prosecuting attorney (1827 to date),⁷⁴ recorder (1827 to date),⁷⁵ registration officer (1889 to 1896, 1933 to date),⁷⁶ school commissioner (1829 to 1852),⁷⁷ school examiner (1853 to 1873),⁷⁸ sheriff (1827 to date),⁷⁹ superintendent of highways (1918 to 1933),⁸⁰ surveyor (1827 to date),⁸¹ tax collector (1827 to 1841),⁸² treasurer (1827 to date),⁸³ board of charities and corrections (1899 to 1936),⁸⁴ board of children's guardians (1901 to 1936),⁸⁵ board of commissioners (1830 to date),⁸⁶ board of equalization (1827 to 1890),⁸⁷ board of finance (1907 to date),⁸⁸ board of justices (1827 to 1830),⁸⁹ board of library trustees (1827 to the 1850's),⁹⁰ board of primary election commissioners (1907 to

⁶⁷ See the essay entitled "Auditor."

⁶⁸ See the essay entitled "County Agricultural Agent."

⁶⁹ See the essay entitled "County Assessor."

⁷⁰ See the essay entitled "County Health Officer."

⁷¹ See the essay entitled "County Highway Supervisor."

⁷² See the essay entitled "County Superintendent of Schools."

⁷³ See the essay entitled "County Assessor."

⁷⁴ See the essay entitled "Prosecuting Attorney."

⁷⁵ See the essay entitled "Recorder."

⁷⁶ See the essay entitled "Registration Officer." From 1889 to 1896 the clerk of the circuit court performed the functions of registration officer though not officially designated by that name.

⁷⁷ See the essay entitled "County School Fund Board."

⁷⁸ See the essay entitled "County Superintendent of Schools."

⁷⁹ See the essay entitled "Sheriff."

⁸⁰ See the essay entitled "County Highway Supervisor."

⁸¹ See the essay entitled "Surveyor."

⁸² See the essay entitled "Treasurer."

⁸³ *Ibid.*

⁸⁴ See the essay entitled "County Department of Public Welfare."

⁸⁵ *Ibid.*

⁸⁶ See the essay entitled "Board of Commissioners."

⁸⁷ See the essay entitled "County Board of Review." Before 1841 the board had no official name.

⁸⁸ See the essay entitled "Board of Finance."

⁸⁹ See the essay entitled "Board of Commissioners."

⁹⁰ See the essays entitled "Auditor", "Clerk of the Circuit Court", and "Recorder."

date),⁹¹ board of registration commissioners (1917 to 1919),⁹² board of turnpike directors (1879 to 1913),⁹³ commission of public records (1939 to date),⁹⁴ county board of canvassers (1848 to date),⁹⁵ county board of education (1873 to date),⁹⁶ county board of election commissioners (1889 to date),⁹⁷ county board of health (1881 to 1909),⁹⁸ county board of review (1891 to date)⁹⁹, county board of tax adjustment (1932 to date),¹⁰⁰ county council (1899 to date),¹⁰¹ county department of public welfare (1936 to date),¹⁰² county school fund board (1935 to date),¹⁰³ precinct registration board (1911 to 1917, 1919 to 1925),¹⁰⁴ registration board (1925 to 1927),¹⁰⁵ township board of registry (1867 to 1869),¹⁰⁶ circuit court (1827 to date),¹⁰⁷ court of common pleas (1853 to 1873),¹⁰⁸ court of conciliation (1852 to 1865),¹⁰⁹ probate court (1829 to 1853),¹¹⁰ and superior court (1909 to date).¹¹¹

In the early days of the county, few public officials were needed. Only one court was needed to try civil and criminal cases and to administer estates of decedents. Criminal cases constituted a large majority of the court's business. The sheriff preserved order generally, took part in conducting elections, and executed the process of the court. The clerk of the circuit court acted as ministerial officer of the circuit

⁹¹ See the essay entitled "Board of Primary Election Commissioners."

⁹² See the essay entitled "Registration Officer."

⁹³ See the essays entitled "Board of Commissioners" and "County Highway Supervisor."

⁹⁴ See the essay entitled "Commission of Public Records."

⁹⁵ See the essay entitled "County Board of Canvassers."

⁹⁶ See the essay entitled "County Board of Education."

⁹⁷ See the essay entitled "County Board of Election Commissioners."

⁹⁸ See the essay entitled "County Health Officer."

⁹⁹ See the essay entitled "County Board of Review."

¹⁰⁰ See the essay entitled "County Board of Tax Adjustment."

¹⁰¹ See the essay entitled "County Council."

¹⁰² See the essay entitled "County Department of Public Welfare."

¹⁰³ See the essay entitled "County School Fund Board."

¹⁰⁴ See the essay entitled "Registration Officer."

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

¹⁰⁷ See the essay entitled "Circuit Court."

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

¹¹¹ See the essay entitled "Superior Court."

court and all courts later created, served as clerk of the board doing county business (board of commissioners or board of justices), took part in elections, county finance, and taxation, and was in general a "county clerk"—a name by which he is often called now. A recorder was provided for by the Constitution of 1816, but his duties were very light in the beginning. The coroner's duties were similar to his duties today: Investigation of the causes of death of persons where there was likelihood that a crime was involved. The board doing county business had charge of the acquisition, use, and disposition of county property, constructed public buildings, levied taxes, issued licenses, established and constructed roads and bridges, allowed claims against the county, employed public officials other than the constitutional officers, and provided for poor relief. The first state tax law for the support of the schools was passed in 1849. As a result of increased property valuations, property transfers, business activity, and transportation facilities, taxation gradually grew from a very simple form to a more complex form affecting more kinds of property. New courts were created and abolished from time to time, and the office of auditor (the financial agent of the county) was created to take over many duties of the clerk of the circuit court. Since the adoption of the Constitution of 1851, the public school facilities have steadily improved. In 1899 the "County Reform Law" was enacted, transferring to the newly created county council many duties concerning taxation and finance previously performed by the board of commissioners. In recent years public health service and public welfare assistance have become important functions of the county and its officials.

GENERAL ADMINISTRATION

Since July 31, 1830 the general administrative control of county matters has been vested in a board of commissioners, composed of three members (individually known as county commissioners) elected by the voters of the whole county from the residents of three commissioners' districts, subject to exceptions herein stated. From April 1, 1827 (the time of the creation of the county) until July 31, 1830, county business was transacted by a board of justices composed of all the justices of the peace in the county. Since 1899 many powers of a fiscal nature (including the making of tax levies) previously exercised by the board of commissioners have been

vested exclusively in the county council, composed of seven members (three elected by the voters of the whole county, and four elected by the voters of four districts of the county).¹¹²

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Delaware." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.¹¹³ In legal contemplation, the board is the county.¹¹⁴

The principal functions of the board are: Control of county property; allowance of claims against the county;¹¹⁵ to provide office rooms for county officers;¹¹⁶ construction and repair of roads,¹¹⁷ bridges, culverts,¹¹⁸ and county buildings;¹¹⁹ purchase of materials and supplies;¹²⁰ exercise of the power of eminent domain;¹²¹ preparation of the annual budget estimates;¹²² issuance of county bonds;¹²³ establishment of new townships and change of township¹²⁴ and

¹¹² Const., art. 6, sec. 10. Acts 1816-17, ch. 15, sec. 1. Acts 1817-18 (general), ch. 41, sec. 1. Rev. Laws 1824, chs. 15, 16. Acts 1826-27, ch. 10, secs. 4, 6; ch. 13, secs. 1, 11. Acts 1829-30, ch. 15. Rev. Laws 1831, ch. 20. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, secs. 1-3. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 17, 18, 21, 22. Acts 1899; Burns 26-501 to 26-551; Baldwin 5365 to 5414. 1 Rev. Stat. 1852; Burns 26-601 to 26-639; Baldwin 5215 *et seq.* Snider v. State *ex rel.* Leap (1934), 206 Ind. 474, 190 N. E. 178.

¹¹³ 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220.

¹¹⁴ Dice v. County Board of Finance (1934), 99 Ind. App. 405, 192 N. E. 770.

¹¹⁵ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26-807; Baldwin 5256.

¹¹⁶ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241.

¹¹⁷ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8892 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

¹¹⁸ Acts 1905, 1907, 1929; Burns 36-1901 *et seq.*; Baldwin 9236 *et seq.* Acts 1905, 1911, 1913; Burns 36-2001 *et seq.*; Baldwin 9191 *et seq.* Acts 1920 (Spec. Sess.); Burns 36-2404; Baldwin 9154.

¹¹⁹ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1907; Burns 26-2002, 26-2004; Baldwin 5101, 5103.

¹²⁰ Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

¹²¹ Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

¹²² Acts 1899; Burns 26-516, 26-519; Baldwin 5380, 5383.

¹²³ 1 Rev. Stat. 1852, Acts 1869; Burns 26-1001 *et seq.*; Baldwin 5242 *et seq.*

¹²⁴ Acts 1859; Burns 26-701; Baldwin 16055. Acts 1919; Burns 26-705; Baldwin 16059. Commissioners' Record A:2, 49, 96, 125, 155, 170, 184, 185, 195.

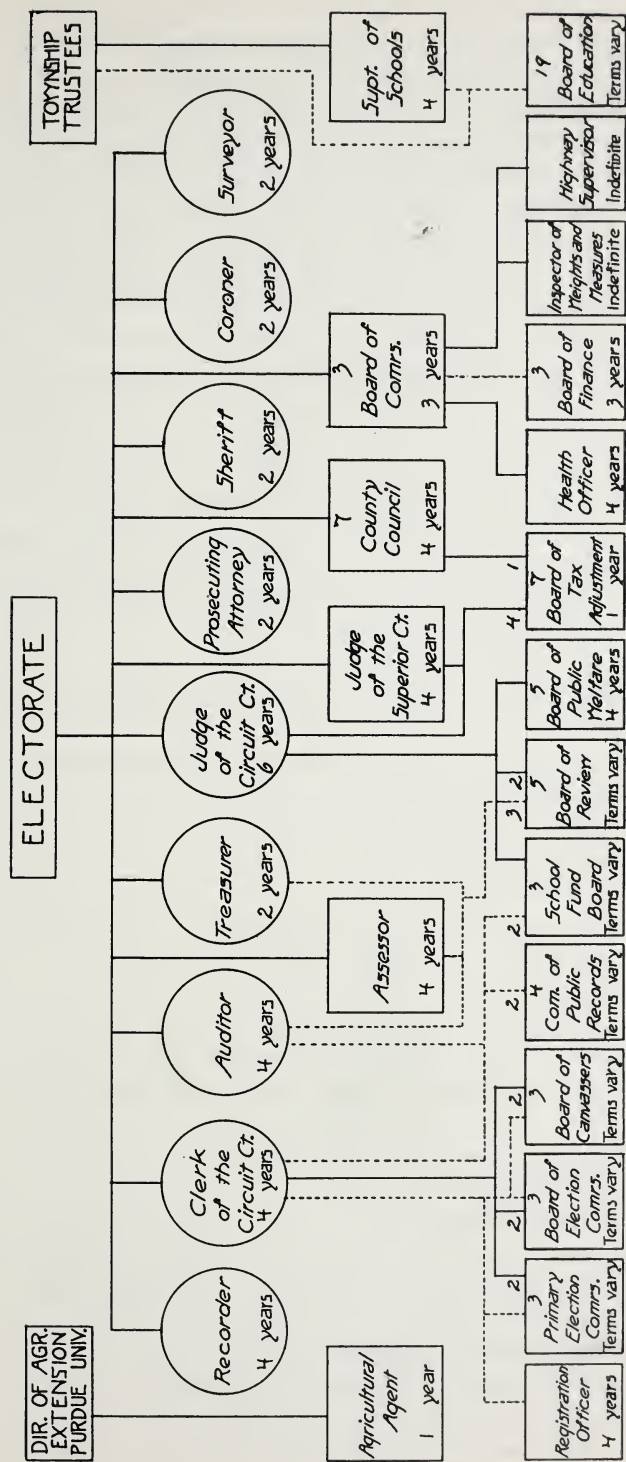


Chart of Delaware County Governmental Organization, 1940

precinct¹²⁵ boundary lines; to provide rooms, booths, ballot boxes, and voting machines for elections;¹²⁶ establishment and maintenance of libraries¹²⁷ and hospitals;¹²⁸ inspection of county jail¹²⁹ and poor asylum;¹³⁰ subscription to and preservation of newspapers printed in the county;¹³¹ maintenance of standards of weights and measures;¹³² reproduction of mutilated or decayed records;¹³³ regulation of traffic on highways;¹³⁴ authorization of payment of bounties;¹³⁵ offering rewards in case of murder or lynchings;¹³⁶ enforcement of its orders;¹³⁷ appointment of highway supervisor¹³⁸ and health officer;¹³⁹ employment of a county attorney¹⁴⁰ and tax ferrets;¹⁴¹ removal of a delinquent county treasurer after suit on his official bond has been commenced;¹⁴² and appointment of successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, and treasurer.¹⁴³

Before 1909 the board of commissioners audited the books and accounts of all officers handling county funds. Since 1909 such duties have been performed by the state examiner instead of the board of commissioners.¹⁴⁴

¹²⁵ Acts 1889, 1907; Burns 29-801 *et seq.*; Baldwin 7089 *et seq.* Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

¹²⁶ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135.

¹²⁷ Acts 1917, 1921, 1927; Burns 41-510; Baldwin 10321.

¹²⁸ Acts 1903; Burns 22-3201; Baldwin 4507.

¹²⁹ Acts 1909; Burns 13-1008; Baldwin 13460.

¹³⁰ 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

¹³¹ 1 Rev. Stat. 1852; Burns 26-626; Baldwin 5285.

¹³² 1 Rev. Stat. 1852; Burns 69-101.

¹³³ Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340.

¹³⁴ Acts 1919; Burns 36-706; Baldwin 8899.

¹³⁵ 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 to 26-1103, 26-1105, 26-1106; Baldwin 5288, 3802, 5289, 5293, 5294.

¹³⁶ Acts 1899; Burns 26-1104; Baldwin 5290.

¹³⁷ 1 Rev. Stat. 1852; Burns 26-619; Baldwin 5233.

¹³⁸ Acts 1933; Burns 36-1110; Baldwin 8708.

¹³⁹ Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

¹⁴⁰ Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

¹⁴¹ Acts 1905; Burns 64-2830; Baldwin, 1935 suppl., 15696-1.

¹⁴² 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

¹⁴³ 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

¹⁴⁴ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

A regular session of the board of commissioners begins on the first Monday of each month and continues so long as the necessary business of the session requires.¹⁴⁵ Special sessions are held when called by the auditor, or, in case of death or disqualification, by the clerk of the circuit court or the recorder, respectively.¹⁴⁶ Any two members constitute a quorum to do business.¹⁴⁷ The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.¹⁴⁸ All meetings of the board are open to the public.¹⁴⁹ The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.¹⁵⁰ Whenever, in the trial of any cause, two or more members of the board are disqualified, the circuit judge appoints special commissioners to act in their places.¹⁵¹

Though appeals may be taken to the circuit court or superior court to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.¹⁵² Appeals are authorized in proceedings concerning claims against the county,¹⁵³ removal of county seat,¹⁵⁴ establishment or vacation of public ferry,¹⁵⁵ and highway matters.¹⁵⁶

The auditor, as clerk of the board, attends its meetings, keeps a record of the proceedings, and preserves in his office all the books and papers touching the business of the county.¹⁵⁷

Acts 1897; Burns 26-636; Baldwin 5237. 1 Rev. Stat. 1852; Burns 49-31110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Interview of May 18, 1939 with E. P. Brennan, state examiner.

¹⁴⁵ Acts 1899; Burns 26-550; Baldwin 5221.

¹⁴⁶ Acts 1863, 1899; Burns 26-607 to 26-610; Baldwin 5222 to 5225.

¹⁴⁷ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

¹⁴⁸ 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

¹⁴⁹ 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

¹⁵⁰ 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

¹⁵¹ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

¹⁵² Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin

1476. 1 Rev. Stat. 1852; Burns 26-901. State *ex rel.* Starry v. Board of County Comrs. (1893),

136 Ind. 207, 35 N. E. 1100.

¹⁵³ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

¹⁵⁴ Acts 1885 (Spec. Sess.); Burns 26-410.

¹⁵⁵ 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

¹⁵⁶ Acts 1905; Burns 36-1501; Baldwin 8858.

¹⁵⁷ 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

The purpose of the general assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.¹⁵⁸ Before 1899 the board of commissioners performed the duties now performed by the council.¹⁵⁹

The county council makes appropriations of money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates,¹⁶⁰ authorizes the borrowing of money for the county,¹⁶¹ authorizes the county to purchase, sell, or convey real estate of the value of \$1,000 or more,¹⁶² and fixes the amounts of salaries of deputy officers and other assistants of county officers.¹⁶³ In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.¹⁶⁴ Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment.¹⁶⁵ In mandamus proceedings, the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact the condition has been performed.¹⁶⁶ The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the state board of tax commissioners; and no bonds or notes bearing interest greater than five percent per annum can be issued without the approval of said board.¹⁶⁷

¹⁵⁸ Acts 1899; Burns 26-529; Baldwin 5393. *Snider v. State ex rel.* Leap (1934), 206 Ind. 474, 190 N. E. 178.

¹⁵⁹ 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

¹⁶⁰ Acts 1899, 1931; Burns 26-507, 26-515, 26-520; Baldwin 5371, 5379, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

¹⁶¹ Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

¹⁶² Acts 1899; Burns 26-534; Baldwin 5399. Acts 1903; Burns 22-3201; Baldwin 4507.

¹⁶³ Acts 1933, 1935; Burns, 1939 suppl., 49-1002; Baldwin, 1935 suppl., 7532.

¹⁶⁴ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5388. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

¹⁶⁵ Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹⁶⁶ Acts 1899; Burns 26-528; Baldwin 5392. *State ex rel. Simpson v. Meeker* (1914), 182 Ind. 240, 105, N. E. 906; *State ex rel. Test v. Steinwedel* (1932), 203 Ind. 457, 180 N. E. 865; *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

¹⁶⁷ Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736. *Citizens Bank v. Burnettsville* (1932), 98 Ind. App. 92, 179 N. E. 724.

The county council and the board of commissioners, acting together, perform the following duties: Approving the acceptance of lands given or devised to the county for purposes of a public forest;¹⁶⁸ holding hearings on petitions for the condemnation of school buildings as unfit for use, and deciding for or against such condemnation, subject to appeal to the circuit court or superior court;¹⁶⁹ determining, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;¹⁷⁰ and rebuilding courthouses and jails destroyed by fire or windstorm, and issuing bonds to defray the expense of the same.¹⁷¹

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase, for less than par, any bond, warrant, claim, or demand against the county.¹⁷²

The county council holds a regular annual meeting on the first Tuesday after the first Monday of September of each year. Special meetings may be called by the auditor or a majority of the members of the council.¹⁷³ The sessions are open to the public and may continue until all business is completed.¹⁷⁴ A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.¹⁷⁵ A greater vote is required in order to expel a member (two-thirds),¹⁷⁶ adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),¹⁷⁷ adopt appropriations at a special meeting (two-thirds),¹⁷⁸ and to levy taxes for the repair, maintenance, or preservation of

¹⁶⁸ Acts 1929; Burns 32-105; Baldwin 4879.

¹⁶⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin

1476. Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

¹⁷⁰ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

¹⁷¹ Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

¹⁷² Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

¹⁷³ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

¹⁷⁴ Acts 1899; Burns 26-508; Baldwin 5372.

¹⁷⁵ Acts 1899; Burns 26-511; Baldwin 5375.

¹⁷⁶ Acts 1899; Burns 26-512; Baldwin 5376.

¹⁷⁷ Acts 1899; Burns 26-520; Baldwin 5384.

¹⁷⁸ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

county highways (unanimous).¹⁷⁹ The sheriff, in person or by deputy, attends the sessions of the council and executes its orders.¹⁸⁰

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.¹⁸¹ He keeps separate accounts for each specific item of appropriation made by the council.¹⁸²

CONTRACTS

The board of commissioners, as the general governing body of the county, is the agency entrusted with the making of contracts for the purchase of materials and supplies for all county offices, and for the construction of county buildings and other public improvements.¹⁸³ The board cannot bind the county by any contract which is beyond the scope of its powers.¹⁸⁴ While contracts made by the board are ordinarily in writing, the board may, in certain cases, bind the county by oral contracts.¹⁸⁵

Though the statutes prescribing the methods of letting contracts vary in detail, their general features are fairly uniform. The board is usually required to prepare specifications of commodities to be purchased or work to be performed, together with plans, drawings, or models, if necessary or desirable, and to place these on file in the auditor's office for public inspection. Notice is then given by publication in newspapers of general circulation that the specifications are on file for examination and that sealed bids will be received up to a certain date. The board, after examination of the bids submitted, is required to award the contract to the lowest responsible bidder, or, in some instances, the lowest

¹⁷⁹ Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

¹⁸⁰ Acts 1899; Burns 26-510; Baldwin 5374.

¹⁸¹ Acts 1899; Burns 26-509; Baldwin 5373. State *ex rel.* Van Der Veer v. Butcher (1933), 205 Ind. 117, 185 N. E. 908.

¹⁸² Acts 1899; Burns 26-523; Baldwin 5387.

¹⁸³ Acts 1899, 1903, 1933; Burns 26-536, 26-537; Baldwin 5401, 5402. Acts 1907; Burns 26-2001 to 26-2009; Baldwin 5100 to 5108. Acts 1913, 1929, 1933; Burns 53-101 to 53-106; Baldwin 14079 to 14083.

¹⁸⁴ Hight v. Board of County Comrs. (1879), 68 Ind. 575, 577. Driftwood Valley Turnpike Co. v. Board of County Comrs. (1880), 72 Ind. 226; Board of County Comrs. v. Bradford (1880), 72 Ind. 455.

¹⁸⁵ McCabe v. Board of County Comrs. (1874), 46 Ind. 380; Board of County Comrs. v. Ritter (1883), 90 Ind. 362.

and best bidder.¹⁸⁶ The right is usually reserved to the board, however, to reject any and all bids, if they are unsatisfactory, and re-advertise for new bids. Contracts cannot be made unless money has previously been appropriated by the county council for the particular purpose involved.¹⁸⁷

As a general rule, the time for performance of a contract may extend beyond the official terms of the county commissioners, if the contract is made in good faith.¹⁸⁸ A contract employing an attorney is an exception to this rule.¹⁸⁹

ACTIONS

Ordinarily an action for or against the county is brought by or against the board of commissioners.¹⁹⁰ An action to recover money from the county cannot be maintained until a claim therefor has been presented to the board of commissioners and disallowed in whole or in part; but the complaint in such suit need not allege such presentation and disallowance, this being a matter of defense.¹⁹¹ If the allowance of a claim was illegal, unwarranted, or unauthorized, the board of commissioners may sue to recover from the payee the amount paid. If the board does not bring such suit within 60 days after such allowance, any taxpayer may demand such suit; and if such demand is refused, the taxpayer may sue for the county.¹⁹² If money is illegally paid out of the county treasury, suit to recover the same from the payee may be maintained in the name of the state on the relation of the board of commissioners or the officer making disbursement. If such suit is not brought

¹⁸⁶ The courts have held that provisions of this nature vest some discretion in the board in determining the bidder to whom the contract shall be awarded. *Ness v. Board of County Comrs.* (1912), 178 Ind. 221, 98 N. E. 33; *Eigenmann v. Board of County Comrs.* (1913), 53 Ind. App. 1, 101 N. E. 38.

¹⁸⁷ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

¹⁸⁸ *Board of County Comrs. v. Shields* (1891), 130 Ind. 6, 29 N. E. 385; *Jessup v. Hinchman* (1922), 77 Ind. App. 460, 133 N. E. 853.

¹⁸⁹ *Board of County Comrs. v. Taylor* (1890), 123 Ind. 148, 23 N. E. 752.

¹⁹⁰ 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220. *Shilling v. State ex rel. Board of County Comrs.* (1901), 158 Ind. 185, 62 N. E. 49.

¹⁹¹ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. *Bass Foundry & Mach. Works v. Board of County Comrs.* (1881), 115 Ind. 234, 17 N. E. 593; *Board of County Comrs. v. Tichenor* (1891), 129 Ind. 562, 29 N. E. 32; *Mueller v. Board of County Comrs.* (1920), 73 Ind. App. 196, 127 N. E. 15.

¹⁹² Acts 1897; Burns 26-811; Baldwin 5262. *Sudbury v. Board of County Comrs.* (1901), 157 Ind. 446, 62 N. E. 45.

within 30 days, any citizen or taxpayer may make written demand on the board of commissioners to bring such suit; and if the board fails or refuses to do so, he may bring suit in the name of the state on his own relation.¹⁹³

The board of commissioners, as relator, may sue, in the name of the state, on official bonds to recover county funds.¹⁹⁴ The auditor, as relator, may sue, in the name of the state, to recover money owing to the county.¹⁹⁵

The treasurer sues in his name, as treasurer, to collect property taxes.¹⁹⁶ Suit to collect inheritance tax is brought in the name of the county.¹⁹⁷ After a claim therefor has been disallowed by the board of commissioners, the taxpayer may sue the board of commissioners to recover taxes illegally assessed or collected.¹⁹⁸

Land needed by the county for public buildings,¹⁹⁹ highways, bridges, culverts,²⁰⁰ drainage, sewers,²⁰¹ or airports²⁰² may be acquired by the county under its power of eminent domain, on payment of the value fixed by the court in condemnation proceedings.

The action of mandamus may be brought against any county officer to compel the performance of any act which the law specifically enjoins, or any duty resulting from his office or trust.²⁰³ For example, mandamus lies to compel: The auditor to draw warrants on the county treasury;²⁰⁴ the board of commissioners to take action on claims that have been properly

¹⁹³ Acts 1899; Burns 26-545; Baldwin 5410.

¹⁹⁴ Acts 1881 (Spec. Sess.); Burns 2-203; Baldwin 18. *Graham v. State ex rel. Board of County Comrs.* (1879), 66 Ind. 386; *Shilling v. State ex rel. Board of County Comrs.* (1901), 158 Ind. 185, 62 N. E. 49.

¹⁹⁵ 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Vanarsdall v. State ex rel. Watson* (1879), 65 Ind. 176; *Demarest v. Holdeman* (1901), 157 Ind. 467, 62 N. E. 17.

¹⁹⁶ Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

¹⁹⁷ Acts 1931; Burns 6-2415; Baldwin 15953.

¹⁹⁸ Acts 1919; Burns 64-2819; Baldwin 15881. Acts 1923; Burns 64-2824; Baldwin 15884. *Cody v. Board of County Comrs.* (1922), 204 Ind. 87, 138 N. E. 404; *Board of County Comrs. v. Millikan* (1934), 207 Ind. 142, 190 N. E. 185.

¹⁹⁹ Acts 1899; Burns 26-2101; Baldwin 5109.

²⁰⁰ Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

²⁰¹ Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

²⁰² Acts 1920 (Spec. Sess.); Burns 14-302; Baldwin 4022.

²⁰³ Acts 1881 (Spec. Sess.), 1911; Burns 3-2202; Baldwin 1091.

²⁰⁴ *Gill v. State ex rel. Board of County Comrs.* (1880), 72 Ind. 266.

presented,²⁰⁵ to approve official bonds,²⁰⁶ and to repair or rebuild bridges;²⁰⁷ and the county council to make appropriations.²⁰⁸

In some instances, a county officer can be enjoined from acting illegally. Some of the acts prevented by injunction are: Collection of illegal taxes;²⁰⁹ doing of illegal acts that would increase taxation;²¹⁰ payment of illegal claims;²¹¹ and making an illegal contract.²¹²

The county is not liable for damages resulting from the acts or omissions of its officers, except where such liability is imposed or permitted by statute.²¹³

Failure of the county council to make appropriation for the debt or demand constituting the subject matter of the suit does not prevent maintenance of the suit or recovery of judgment.²¹⁴ No judgment against a county is enforceable except out of moneys appropriated by the county council for that purpose; but, by mandamus proceedings against the county council, board of commissioners, and auditor, the county council may be compelled to make such appropriation.²¹⁵

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all suits in which the county may be interested or involved,²¹⁶ including suits to collect taxes²¹⁷

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²⁰⁵ Board of County Comrs. v. State *ex rel.* Reed (1913), 179 Ind. 644, 102 N. E. 97.

²⁰⁶ State *ex rel.* Taylor v. Board of County Comrs. (1890), 124 Ind. 554, 25 N. E. 10.

²⁰⁷ State *ex rel.* Roundtree v. Board of County Comrs. (1881), 80 Ind. 478.

²⁰⁸ Shelby County Council v. State *ex rel.* School of Shelbyville (1900), 155 Ind. 216, 57 N. E. 712.

²⁰⁹ Hobbs v. Board of County Comrs. (1885), 103 Ind. 575, 3 N. E. 263.

²¹⁰ State *ex rel.* Davis v. Board of County Comrs. (1905), 165 Ind. 262, 74 N. E. 1091.

²¹¹ Warren Agri. Joint Stock Co. v. Barr (1876), 55 Ind. 30. But see Bentley v. Board of County Comrs. (1936), 102 Ind. App. 533, 200 N. E. 499.

²¹² Farris v. Jones (1887), 112 Ind. 498, 14 N. E. 484.

²¹³ State *ex rel.* Board of County Comrs. v. Board of County Comrs. (1908), 170 Ind. 595, 608, 85 N. E. 513.

²¹⁴ Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. Pike Civil Twp. (1907), 168 Ind. 535, 81 N. E. 489.

²¹⁵ Acts 1899; Burns 26-528; Baldwin 5392.

Formerly the public property of the county was subject to execution to satisfy such judgment. 1 Rev. Stat. 1852; Burns 26-803; Baldwin 5253.

²¹⁶ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

²¹⁷ Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1937; Burns, 1939 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-719, 64-1519; Baldwin 15633, 15773. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1939 suppl., 64-2628; Baldwin, 1937 suppl., 16009.

or to recover tax penalties and forfeitures²¹⁸ and suits against officers or on their bonds.²¹⁹ The prosecuting attorney must make a report to the board of commissioners each month showing the causes in which he appeared in person or by deputy.²²⁰

RECORDATION

The recordation of deeds, mortgages, plats, and other private documents for purposes of preservation and public notice is a most important function of the county, since commerce and titles to property are directly affected thereby.²²¹ To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,²²² and intangible tax thereon (if any) must be paid.²²³ For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. A fee of 10 cents is charged for each instrument so entered. No such deed or partition can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.²²⁴

The recorder and clerk of the circuit court are the recording officers. Lists of documents which may be recorded by them are set out in the essays on their offices in Part B of this book.

Indiana has no system of registration of land titles. A bill to establish the "Torrens System" of registration of land

²¹⁸ Acts 1919; Burns 64-608, 64-1319, 64-2208; Baldwin 15576, 15723, 15815.

²¹⁹ Acts 1917; Burns 60-227; Baldwin 13878.

²²⁰ Acts 1933; Burns 49-2695; Baldwin 7550.

²²¹ Acts 1935; Burns, 1939 suppl., 51-504; Baldwin, 1935 suppl., 13227-4. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Acts 1897; Burns 56-120. Acts 1877; Burns 56-716; Baldwin 998.

²²² Rev. Laws 1831, ch. 41, secs. 7, 11. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14731.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

²²³ Acts 1933; Burns 64-929; Baldwin 15927.

²²⁴ 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

titles was introduced in the 1939 session of the general assembly but was defeated.

Indiana has a system of registering titles to motor vehicles (law administered by the Indiana Secretary of State),²²⁵ but has no system of registering titles to other personal property.

JUDICIARY

Delaware County has two courts—Delaware Circuit Court and Delaware Superior Court—each consisting of one judge elected by the voters of the county. Under the requirements of the Constitution of 1816 and the Constitution of 1851, the circuit court has existed in the county continuously since the organization of the county in 1827. The superior court has existed in the county continuously since 1909.²²⁶ The following courts previously existed in Delaware County, but were abolished: Probate court (1829 to 1853),²²⁷ common pleas court (1853 to 1873),²²⁸ and court of conciliation (1853 to 1865).²²⁹

The circuit court has original jurisdiction of all criminal cases under the state laws. The circuit court and superior court have concurrent original jurisdiction of all civil cases at law and in equity, under the state laws,²³⁰ except that the circuit court has exclusive original jurisdiction of juvenile matters, probate of wills, and administration of estates of decedents. The circuit court is known as the "Juve-

²²⁵ Acts 1921, 1931, 1935, 1939; Burns, 1939 suppl., 47-301; Baldwin, 1939 suppl., 11128.

²²⁶ Const. 1816, art. 5, secs. 1, 3-7. Const., art. 7, secs. 1, 8, 9. Acts 1826-27, ch. 10. Acts 1881 (Spec. Sess.), ch. 24. Acts 1885, ch. 27, sec. 2. Acts 1909, ch. 35, secs. 8-10, 17. Acts 1929, ch. 244, secs. 1-5 (pp. 665-667 of Acts 1931).

²²⁷ Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, sec. 1. Rev. Stat. 1843, ch. 4, sec. 2, 9; ch. 39, secs. 1-13.

The probate court was abolished in 1853 and its jurisdiction was transferred to the common pleas court. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

²²⁸ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 1, 3. Jones v. Cavins (1853), 4 Ind. 305.

The common pleas court was abolished in 1873 and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

²²⁹ Const., art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2.

The court of conciliation was abolished in 1865. Acts 1865 (Spec. Sess.), ch. 57.

²³⁰ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1909, ch. 35, sec. 9. Acts 1929; Burns 4-704; Baldwin 1476.

nile Court" when exercising jurisdiction of juvenile matters.²³¹

The circuit court and superior court have concurrent appellate jurisdiction to review decisions—the superior court being confined to civil matters—²³² of justices of the peace,²³³ city courts,²³⁴ board of commissioners,²³⁵ board of review fixing value of property for taxation,²³⁶ taxing authorities determining that property is taxable,²³⁷ board of public works or board of park commissioners of any city in the county (or city council performing such functions),²³⁸ and other inferior tribunals when no express direction is given as to the court to which the appeal lies.²³⁹

The circuit court and superior court have concurrent original jurisdiction of naturalization proceedings under the federal laws.²⁴⁰

In each township in Delaware County there is a justice of the peace, elected by the voters of the township, having very minor civil and criminal jurisdiction, and having jurisdiction as a committing magistrate in criminal cases. His civil jurisdiction is limited to his township, but his criminal jurisdiction is co-extensive with his county.²⁴¹ Each justice of the peace must pay to the county treasurer all fines which he collects.²⁴²

²³¹ *Ibid.* Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

²³² Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1909, ch. 35, sec. 9. Acts 1929; Burns 4-704; Baldwin 1476.

²³³ 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

²³⁴ Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

²³⁵ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. *State ex rel. Sink v. Circuit Court, —Ind.—* (1938), 15 N. E. (2d) 624.

²³⁶ Acts 1927; Burns 64-1020; Baldwin 15686.

²³⁷ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

²³⁸ Acts 1933; Burns 48-4501; Baldwin 11576.

²³⁹ *Hamilton v. Fort Wayne* (1880), 73 Ind. 1.

²⁴⁰ Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:69. Acts of Congress 1906, 1911, 1913; *U. S. C.*, title 8, sec. 357.

²⁴¹ Const. 1816, art. 5, sec. 12. Const., art. 7, sec. 14. Acts 1913; Burns 5-101; Baldwin 1828. 2 Rev. Stat. 1852; Burns 5-201; Baldwin 1857. Acts 1905; Burns 9-715; Baldwin 2084.

²⁴² Acts 1881; Burns 5-1803; Baldwin 1874.

Arranged according to subject matter, the courts existing in Delaware County from 1827 to date have had original jurisdiction as follows:— *Civil actions at law*: (1) circuit court (1827 to date)²⁴³—reviewable by Supreme Court of Indiana or Appellate Court of Indiana;²⁴⁴ (2) probate court (1838 to 1853)²⁴⁵—reviewable by the circuit court or Supreme Court of Indiana;²⁴⁶ (3) common pleas court (1853 to 1873)²⁴⁷—reviewable by the circuit court or Supreme Court of Indiana;²⁴⁸ (4) superior court (1909 to date)²⁴⁹—reviewable by Supreme Court of Indiana or Appellate Court of Indiana;²⁵⁰ *criminal cases*: (1) circuit court (1827 to date)²⁵¹—reviewable by Supreme Court

²⁴³ Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. Rev. Stat. 1843, ch. 38, secs. 7, 10-12. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

²⁴⁴ Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

²⁴⁵ Dower proceedings, partition proceedings, and actions concerning heirs, devisees, executors, administrators, and guardians. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5, 6. Rev. Stat. 1843, ch. 39, secs. 1, 6-8.

The probate court was abolished in 1853, and its jurisdiction was transferred to the common pleas court. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

²⁴⁶ Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

²⁴⁷ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 5, 7, 11, 12, 23.

The common pleas court had no jurisdiction of civil actions at law involving title to real estate, or to recover on bonds of state or county officers, or to recover damages for slander, libel, or breach of marriage contract, or to recover \$1,000 or more, or to recover \$50 or less. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11.

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

²⁴⁸ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550.

²⁴⁹ Acts 1909, ch. 35, sec. 9. Acts 1929; Burns 4-704; Baldwin 1476.

²⁵⁰ Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1877; Burns 4-522; Baldwin 1450-22.

²⁵¹ Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5-7; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, secs. 5-7. Rev. Laws 1824, ch. 24, secs. 4-6. Rev.

of Indiana;²⁵² (2) common pleas court (1853 to 1873)²⁵³ —reviewable by the circuit court or Supreme Court of Indiana;²⁵⁴ *chancery cases*: (1) circuit court (1827 to date)²⁵⁵ —reviewable by Supreme Court of Indiana or Appellate Court of Indiana;²⁵⁶ (2) probate court (1838 to 1853)²⁵⁷ —reviewable by the circuit court or Supreme Court of Indiana;²⁵⁸ (3) common pleas court (1853 to 1873)²⁵⁹ —reviewable by the circuit court or Supreme Court of Indiana;²⁶⁰ (4) superior court (1909 to

Laws 1831, ch. 22, secs. 3-5. Rev. Stat. 1838, ch. 23 (first act), secs. 3-5. Rev. Stat. 1843, ch. 38, secs. 9, 12, 13. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

²⁵² Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91. 2 Rev. Stat. 1852, pt. 3, ch. 1, secs. 148-163. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

²⁵³ 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 14-19.

The common pleas court had no original jurisdiction of felonies punishable by death.

Ibid.

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

²⁵⁴ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 3, ch. 1, secs. 148-163.

²⁵⁵ Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2; ch. 4. Acts 1817-18 (general), ch. 2, sec. 5; ch. 3. Rev. Laws 1824, ch. 24 secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), secs. 3, 12. Rev. Stat. 1843, ch. 38, secs. 8, 10-12; ch. 46, secs. 1-3. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

²⁵⁶ Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

²⁵⁷ Chancery suits in favor of or against heirs, devisees, legatees, executors, administrators, or guardians, and their sureties and representatives. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5. Rev. Stat. 1843, ch. 39, secs. 1, 6; ch. 46, secs. 1-3.

²⁵⁸ Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

²⁵⁹ 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 7, 11, 21.

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

²⁶⁰ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20-22; pt. 2, ch. 1, sec. 550.

date)²⁶¹—reviewable by Supreme Court of Indiana or Appellate Court of Indiana;²⁶² *probate matters, settlement of decedents' estates, and guardianships*: (1) circuit court (1827 to 1829, 1873 to date)²⁶³—reviewable by Supreme Court of Indiana or Appellate Court of Indiana;²⁶⁴ (2) probate court (1829 to 1853)²⁶⁵—reviewable by the circuit court or Supreme Court of Indiana;²⁶⁶ (3) common pleas court (1853 to 1873)²⁶⁷—reviewable by the circuit court or Supreme Court of Indiana;²⁶⁸ *juvenile matters*: (1) circuit court (1867 to date)²⁶⁹—reviewable by Supreme Court of Indiana

²⁶¹ Acts 1909, ch. 35, sec. 9. Acts 1929; Burns 4-704; Baldwin 1476.

²⁶² Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1877; Burns 4-522; Baldwin 1450-22.

²⁶³ Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, secs. 2, 3. Acts 1817-18 (general), ch. 2, sec. 5; ch. 13. Rev. Laws 1824, ch. 24, secs. 4, 5; ch. 79. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 22, sec. 3; ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 38, secs. 6-13; ch. 39, secs. 1, 6-8. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 5. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

The probate court was abolished in 1853, and its jurisdiction was transferred to the common pleas court. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417. Acts 1927, 1929; Burns 4-603; Baldwin 1453.

²⁶⁴ Acts 1816-17, ch. 1, secs. 7, 13, 17. Acts 1817-18 (general), ch. 1, secs. 7, 13; ch. 13, sec. 11. Rev. Laws 1824, ch. 25, sec. 7; ch. 79, sec. 13. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

²⁶⁵ Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1, 5-8.

The probate court was abolished in 1853, and its jurisdiction was transferred to the common pleas court. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

²⁶⁶ Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

²⁶⁷ 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 4.

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

²⁶⁸ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550; ch. 10, secs. 189-193; ch. 11, secs. 43-46.

²⁶⁹ Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

or Appellate Court of Indiana;²⁷⁰ (2) common pleas court (1867 to 1873)²⁷¹—reviewable by the circuit court or Supreme Court of Indiana;²⁷² *conciliation*: court of conciliation (1853 to 1865)²⁷³—judgment not appealable;²⁷⁴ *naturalization proceedings*: (1) circuit court (1827 to date)²⁷⁵—reviewable by Supreme Court of Indiana or Appellate Court of Indiana;²⁷⁶ (2) common pleas court (1853 to 1873)²⁷⁷—reviewable by the circuit court or Supreme Court of Indiana;²⁷⁸ (3) superior court (1909 to date)²⁷⁹—reviewable by Supreme Court of Indiana or Appellate Court of Indiana.²⁸⁰

²⁷⁰ 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

²⁷¹ 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 1. Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

²⁷² 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 3, ch. 1, secs. 148-163.

²⁷³ Const., art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2.

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

The Court of conciliation was abolished in 1865. Acts 1865 (Spec. Sess.), ch. 57.

²⁷⁴ Const., art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 7, 12-14.

²⁷⁵ Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 1824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:69. Acts of Congress 1906, 1911, 1913; U. S. C., title 8, sec. 357. Const. 1816, art. 5, secs. 1, 3. Const., art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. Rev. Stat. 1843, ch. 38, secs. 7, 10-12. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

²⁷⁶ Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

²⁷⁷ Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 1824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:69. Acts of Congress 1906, 1911, 1913; U. S. C., title 8, sec. 357. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 5, 7, 11, 12, 21, 23.

The Revised Statutes of 1852 took effect on May 6, 1853. *Jones v. Cavins* (1853), 4 Ind. 305.

The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

²⁷⁸ 2 Rev. Stat. 1852, pt. 1, ch. 8; secs. 13, 20-22; pt. 2, ch. 1, sec. 550.

²⁷⁹ Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 1824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:61. Acts of Congress 1906, 1911, 1913; U. S. C., title 8, sec. 357. Acts 1909, ch. 35, sec. 9. Acts 1929; Burns 4-704; Baldwin 1476.

²⁸⁰ Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1877; Burns 4-522; Baldwin 1450-22.

As an officer of the Delaware Circuit Court, the clerk performs numerous and sundry duties. He, in person or by deputy, attends the sessions of the circuit court and performs the customary duties of clerk at trials;²⁸¹ files pleadings and papers and endorses thereon the time of such filing;²⁸² issues summonses,²⁸³ letters testamentary,²⁸⁴ letters of administration,²⁸⁵ notices for service by publication,²⁸⁶ attachment writs,²⁸⁷ garnishment writs,²⁸⁸ executions,²⁸⁹ and witness subpoenas;²⁹⁰ administers oaths;²⁹¹ takes depositions of witnesses;²⁹² keeps court dockets,²⁹³ inheritance tax records,²⁹⁴ probate records,²⁹⁵ receivership records,²⁹⁶ guardianship records,²⁹⁷ and records of redemption from judicial sales;²⁹⁸ records orders, judgments,²⁹⁹

²⁸¹ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

²⁸² Acts 1816-17, ch. 4, sec. 28. Rev. Stat. 1843, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

²⁸³ Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

²⁸⁴ Acts 1881 (Spec. Sess.); Burns 6-201; Baldwin 3025.

²⁸⁵ Acts 1881 (Spec. Sess.), 1901; Burns 6-301; Baldwin 3030.

²⁸⁶ Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1939 suppl., 2-807; Baldwin 1935 suppl., 88.

²⁸⁷ Rev. Laws 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

²⁸⁸ Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

²⁸⁹ Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524.

²⁹⁰ Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

²⁹¹ Acts 1818-19, ch. 17, sec. 1. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

²⁹² Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

²⁹³ Acts 1814, ch. 13, sec. 5. Acts 1816-17, ch. 4, secs. 11, 12, 28, 32. Rev. Laws 1824, ch. 74, sec. 15. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 358, p. 119. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-3226; Baldwin 500.

²⁹⁴ Acts 1913, ch. 47, secs. 17, 18. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

²⁹⁵ Acts 1817-18, ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1, p. 34. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

²⁹⁶ Acts 1911; Burns 3-2607; Baldwin 1147.

²⁹⁷ Acts 1846-47 (general), ch. 54, sec. 1. Acts 1889; Burns 8-137; Baldwin 3424.

²⁹⁸ Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

²⁹⁹ Acts 1814, ch. 13, sec. 4. Rev. Laws 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410; Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

indictments,³⁰⁰ notices of lis pendens,³⁰¹ and probated wills;³⁰² draws up a record of the proceedings of the court daily;³⁰³ enters in a final record book a complete record of causes finally determined;³⁰⁴ prepares and certifies transcripts of proceedings for change of venue from the county³⁰⁵ or for appeal to a higher court;³⁰⁶ and receives payments for all judgments of record in his office.³⁰⁷ He is ex officio clerk of the superior court and performs therein duties similar to his duties in the circuit court.³⁰⁸ From 1829 until 1853 he was ex officio clerk of the probate court of the county (abolished in 1853),³⁰⁹ and from 1853 until 1873 he was ex officio clerk of the common pleas court of the county (abolished in 1873).³¹⁰

The sheriff executes the process of the circuit court and superior court and preserves order therein.³¹¹ Constables perform similar duties for the justices of the peace.³¹²

³⁰⁰ 2 Rev. Stat. 1852, pt. 3, ch. 1, sec. 68, p. 369 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

³⁰¹ Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97 to 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1.

³⁰² Domestic probate. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3385. Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

³⁰³ Acts 1814, ch. 20, sec. 11. Rev. Laws 1824, ch. 74, sec. 54. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413.

³⁰⁴ Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

³⁰⁵ Acts 1813-14, ch. 37, secs. 1, 2. Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1406; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226. Fees on change of venue, and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Opinions of the Attorney General of Indiana, 1884.* p. 128.

³⁰⁶ Acts 1903, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 455. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

³⁰⁷ Acts 1875; Burns 49-2719; Baldwin 1438.

³⁰⁸ Acts 1929; Burns 4-706; Baldwin 1476.

³⁰⁹ Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

³¹⁰ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

³¹¹ Acts 1929; Burns 4-706; Baldwin 1478. 2 Rev. Stat. 1852; Burns 49-2802, 49-2803; Baldwin 5494, 5495.

³¹² Rev. Stat. 1852; Burns 5-601; Baldwin 1865. Acts 1905; Burns 9-710; Baldwin 2081. 2 Rev. Stat. 1852; Burns 49-3401, 49-3403, 49-3407; Baldwin 16116, 16119, 16122.

The prosecuting attorney acts as attorney for the state in criminal cases and as attorney for the county and state in civil cases.³¹³

Formerly a jury was used in coroner's inquests, but such juries were abolished in 1879.³¹⁴ Under the present system, coroners act in a nonjudicial capacity when holding inquests.³¹⁵

LAW ENFORCEMENT

The constitution provides that all judicial officers shall be conservators of the peace in their respective jurisdictions,³¹⁶ and that all criminal prosecutions shall be carried on in the name, and by the authority, of the state.³¹⁷

Investigations of alleged violations of criminal law are conducted by the prosecuting attorney,³¹⁸ the sheriff,³¹⁹ or the coroner,³²⁰ co-operating with one another and with state and federal bureaus of law enforcement;³²¹ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.³²²

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.³²³ The grand jury consists of six members,³²⁴ at least five of whom must concur in the finding of an indictment. When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill", and signs his name thereunder. The

³¹³ 2 Rev. Stat. 1852; Burns 49-2501, 49-2504; Baldwin 5456, 5460.

³¹⁴ Acts 1817-18 (general), ch. 20. Acts 1879 (Spec. Sess.); Burns 49-2907; Baldwin 5441.

³¹⁵ *Stults v. Board of County Comrs.* (1907), 168 Ind. 539, 81 N. E. 471.

³¹⁶ Const. 1816, art. 5, sec. 5. Const., art. 7, sec. 15.

³¹⁷ Const. 1816, art. 5, sec. 11. Const., art. 7, sec. 18.

³¹⁸ 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

³¹⁹ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

³²⁰ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

³²¹ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

³²² Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

³²³ Acts 1905; Burns 9-826; Baldwin 2122.

³²⁴ Acts 1905; Burns 9-801; Baldwin 2097.

indictment is also signed by the prosecuting attorney.³²⁵

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.³²⁶ He may also prosecute on affidavit all criminal offenses other than treason and murder.³²⁷

Actual enforcement of criminal law in the county is entrusted to the sheriff and the coroner, both officers having existed in Delaware County since its organization.³²⁸ As law enforcement officers, they have identical powers and duties;³²⁹ in practice, however, the coroner performs few of these duties, except in the absence or incapacity of the sheriff. These officers make arrests in accordance with warrants issued by the circuit court or by the clerk of the circuit court, and based on indictments returned by the grand jury or affidavits filed with the court.³³⁰ Writs of arrest may also be issued by the coroner, when the results of an inquest indicate that a felony was committed.³³¹ Arrest without warrant can be made for a felony, where the arresting officer has reliable information of the commission of the crime by the person arrested; and arrest without warrant can be made for a felony or misdemeanor committed within view of the arresting officer.³³² A warrant issued to the sheriff of the county in which the indictment was found or the affidavit was filed may be executed by him in any county of the state.³³³

In the constitution there are many provisions for the benefit of persons accused of crime. Justice must be administered freely, and without purchase; speedily, and without delay.³³⁴ The accused has the right to a public trial in the county in which the offense was committed; the right to be heard by himself and counsel; the right to demand the nature and cause of the accusation against him, and to have a copy thereof;

³²⁵ Acts 1905; Burns 9-901; Baldwin 2123.

³²⁶ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

³²⁷ Acts 1905, 1927; Burns 9-908; Baldwin 2131.

³²⁸ Const. 1816, art. 4, sec. 25. Const., art. 6, sec. 2.

³²⁹ 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

³³⁰ Acts 1881 (Spec. Sess.); Burns 3-302; Baldwin 725.

³³¹ 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

³³² Doering v. State (1874), 49 Ind. 56, 19 Am. Rep. 669; Hart v. State (1924), 195 Ind.

384, 145 N. E. 449.

³³³ Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

³³⁴ Const., art. 1, sec. 12.

the right to meet the witnesses face to face; and the right to have compulsory process for obtaining witnesses in his favor.³³⁵ No person can be put in jeopardy twice for the same offense. No person, in a criminal prosecution, can be compelled to testify against himself.³³⁶ A person arrested or confined in jail must not be treated with unnecessary rigor.³³⁷ Excessive bail must not be required. Excessive fines must not be imposed. Cruel and unusual punishments must not be inflicted. All penalties must be proportioned to the nature of the offense.³³⁸ Offenses other than murder and treason are always bailable by sufficient sureties. Murder and treason are bailable unless the proof of guilt is evident or the presumption of guilt is strong.³³⁹ The penal laws of Indiana are founded on the principles of reformation, and not of vindictive justice.³⁴⁰ In all criminal cases the jury has the right to determine both the law and the facts.³⁴¹ The privilege of the writ of habeas corpus (to obtain release from unlawful detention) cannot be suspended, except in case of rebellion or invasion; and then only if the public safety demands such suspension.³⁴² No conviction can work corruption of blood or forfeiture of estate.³⁴³ The governor has power to grant reprieves, commutations, and pardons, and to remit fines and forfeitures.³⁴⁴

The county jail is maintained by the county,³⁴⁵ the sheriff being responsible for its management.³⁴⁶ Inspection or investigation is made by the grand jury at the beginning of each regular session,³⁴⁷ and by the board of commissioners every three months.³⁴⁸

³³⁵ *Ibid.*, sec. 13.

³³⁶ *Ibid.*, sec. 14.

³³⁷ *Ibid.*, sec. 15.

³³⁸ *Ibid.*, sec. 16.

³³⁹ *Ibid.*, sec. 17.

³⁴⁰ *Ibid.*, sec. 18.

³⁴¹ *Ibid.*, sec. 19.

³⁴² *Ibid.*, sec. 27.

³⁴³ *Ibid.*, sec. 30.

³⁴⁴ *Ibid.*, art. 5, sec. 17.

³⁴⁵ 1 Rev. Stat. 1852; Burns 13-1001; Baldwin 13448.

³⁴⁶ 1 Rev. Stat. 1852; Burns 13-1004; Baldwin 13453.

³⁴⁷ 1 Rev. Stat. 1852; Burns 13-1002; Baldwin 13449.

³⁴⁸ Acts 1909; Burns 13-1008; Baldwin 13460.

FINANCE

APPROPRIATIONS AND BUDGETS

The power of making appropriations of money to be paid out of the county treasury has been vested exclusively in the county council since 1899.³⁴⁹ Before 1899 the board of commissioners performed the duties now performed by the county council.³⁵⁰

No money can be drawn from the county treasury not in pursuance of appropriation therefor,³⁵¹ except in the following instances: (1) Money belonging to the state and commanded by law to be paid into the state treasury; (2) money belonging to any school fund; (3) money belonging to any fund of any township, town, or city, and commanded by law to be paid to such municipality; (4) money, due to any person, which has been paid into the county treasury pursuant to public improvement assessments on persons or property of the county in territory less than the whole county; (5) money, due to any person, which has been paid into the treasury for redemption from any tax or other sale; or money so due that has been paid in pursuant to authority of law as a tender or payment to such person; (6) taxes erroneously paid; (7) funds received from the state or federal governments for welfare assistance or public work projects;³⁵² (8) salaries fixed by law.³⁵³

Before the Thursday following the first Monday in August each year, the various officials of the county (including courts, board of commissioners, and township assessors) submit to the auditor estimates of expenditures and probable revenue to be received from the state for the ensuing calendar year. The estimates are kept on file in the auditor's office, subject to inspection by any taxpayer of the county. The auditor publishes notice of the aggregate amount of each of such estimates, and prepares an ordinance making an appropriation by items for the ensuing calendar year for the various purposes for which all of the estimates are required. At the annual meeting of the county council on the first Tuesday after the first Monday in September, the auditor submits all

³⁴⁹ Acts 1899; Burns 26-515; Baldwin 5379.

³⁵⁰ 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

³⁵¹ Acts 1899; Burns 26-515; Baldwin 5379.

³⁵² Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

³⁵³ Blue v. State *ex rel.* Powell (1936), 210 Ind. 486, 1 N. E. (2d) 122.

of the estimates to the county council and makes recommendations with reference thereto. The council, at that meeting, considers the estimates and the proposed ordinance, and makes such changes as deemed necessary. A three-fourths vote is required to make appropriation for any item not contained in any estimate or for a greater amount than that named in any item of any estimate. The ordinance making the appropriation for the ensuing year is adopted after being read on at least two separate days. This appropriation is called the annual county budget, and the estimates of expenditures are called budget estimates.³⁵⁴

If an emergency arising after the adjournment of the annual meeting requires funds supplementary to those originally included in the annual budget, additional appropriations may be made by ordinance passed by a two-thirds vote of all the members of the council at a special meeting, after estimates are prepared and submitted in the manner required for annual estimates. If the aggregate amount of the requested appropriation exceeds \$15,000, the ordinance must be read on two separate days before passage.³⁵⁵ Such additional appropriations must be approved by the state board of tax commissioners.³⁵⁶

When any item of appropriation remains unexpended at the end of the calendar year for which it was appropriated, the amount thereof reverts to the general fund of the county, and no warrant can be drawn thereon. However, time for withdrawal is extended where payment was withheld during such

³⁵⁴ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

Appropriations can be made only by the passage of ordinances. *State ex rel. Davis v. Board of County Comrs.* (1905), 165 Ind. 262, 74 N. E. 1091.

The statutory provision requiring an ordinance for an appropriation to be read on two separate days is mandatory, and on failure to comply therewith the ordinance is invalid. *Van Der Veer v. State ex rel. Herron* (1929), 97 Ind. App. 1, 165 N. E. 265.

³⁵⁵ Acts 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

The council's determination of emergency is not conclusive on the courts. *State ex rel. Kautz v. Board of County Comrs.* (1933), 204 Ind. 484, 184 N. E. 780.

The words "emergency growing out of a flood, fire, pestilence, war, or other major disaster" are used in Acts 1937; Burns, 1939 suppl., 64-312; Baldwin, 1937 suppl., 15897-6.

Provisions concerning poor relief and welfare services. Acts 1935; Burns, 1939 suppl., 52-174; Baldwin, 1935 suppl., 13320-31. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1303; Baldwin, 1937 suppl., 14978-100.

³⁵⁶ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin 1935 suppl., 15735.

year because of injunction which was later dissolved.⁸⁵⁷ It is unlawful to overdraw the amount of any item of appropriation or to use one item for the purpose of another item.⁸⁵⁸

No county official or court has power to bind the county by any contract, express or implied, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred.⁸⁵⁹

TAXATION

The power of taxation is inherent in the state, and is a legislative power limited only by the provisions of the constitution.⁸⁶⁰ The constitution provides that "The general assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law."⁸⁶¹ This section applies only to a general assessment on property according to its value, and does not apply to excise taxes.⁸⁶² Exemptions are discussed hereinafter.

In Indiana, there are poll taxes, excise taxes, and property taxes. A poll tax is a tax assessed on the person. An excise tax is a tax on privileges, and includes taxes on occupations, inheritance, sale of gasoline, and the like. Laws imposing excise taxes are sometimes called "internal revenue laws." The property tax (also known as ad valorem tax) is the tax on real and personal property based on value, and it constitutes the largest part of the county revenue.

⁸⁵⁷ Acts 1899, 1903; Burns 26-524; Baldwin 5388.

⁸⁵⁸ Acts 1899; Burns 26-523; Baldwin 5387. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

⁸⁵⁹ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

But lack of appropriation does not prevent entry of a judgment binding the county, where the court has jurisdiction of the parties and subject matter of the action. Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. McGregor (1909), 171 Ind. 634, 87 N. E. 1.

⁸⁶⁰ State *ex rel.* Goodman v. Halter (1897), 149 Ind. 292, 47 N. E. 665; Dunn v. Indianapolis (1935), 208 Ind. 630, 196 N. E. 528; Miles v. Department of Treasury (1935), 209 Ind. 172, 199 N. E. 372.

⁸⁶¹ Const., art. 10, sec. 1.

⁸⁶² State Bd. of Tax Comrs. v. Jackson (1931), 283 U. S. 527, 75 L. Ed. 1248, 51 Sup. Ct. 540; Miles v. Department of Treasury (1935), 209 Ind. 172, 199 N. E. 372; Davis v. Sexton (1936), 210 Ind. 138, 200 N. E. 233.

Property may be subject to an excise tax and also a property tax. Excise taxes administered by county officers are discussed hereinafter under the heading "Excise Taxes and Licensing."

In each township having a population not exceeding 5,000 (all townships except Center), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee when performing the duties prescribed by statutes for township assessors.⁸⁶³

A poll tax is assessed on every male inhabitant of the state between the ages of 21 and 50 years.⁸⁶⁴ Poll tax exemptions are allowed to the following persons: Volunteer firemen,⁸⁶⁵ former soldiers and sailors who receive service-connected disability compensation,⁸⁶⁶ and persons exempted by the board of commissioners because of inability to pay.⁸⁶⁷ The auditor certifies to the city officials the number of taxable polls therein.⁸⁶⁸ Poll tax is collected by the county treasurer. A poll tax receipt must be presented to any licensing authority to obtain an occupation license required by state law, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.⁸⁶⁹

The property tax laws are administered by the township assessors, county assessor, auditor, treasurer, board of review, county council, and board of tax adjustment, under the supervision of the state board of tax commissioners. The state board prescribes rules and regulations and advises with the subordinate tax officials. It makes original assessments of certain classes of property of railroads, telephone companies, and other public utilities,⁸⁷⁰ and supervises and reviews

⁸⁶³ Acts 1933; Burns 64-1031; Baldwin 15664.

⁸⁶⁴ Acts 1919; Burns 64-102; Baldwin 15515.

⁸⁶⁵ 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1939 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

⁸⁶⁶ Acts 1923; Burns 45-1210; Baldwin 10917. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201, 64-220; Baldwin, 1937 suppl., 15518, 15515-1.

Before 1937 all militiamen, soldiers, and sailors in active service were exempted. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-201; Baldwin 15518.

⁸⁶⁷ 1 Rev. Stat. 1852; Burns 26-1207; Baldwin 5336.

⁸⁶⁸ Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

⁸⁶⁹ Acts 1931; Burns 42-102 to 42-105; Baldwin 10499 to 10501, 10503.

⁸⁷⁰ The state board of tax commissioners assesses property of the following companies:

assessments, appropriations, and levies of the subordinate tax officials.³⁷¹

The principal steps in property taxation, stated in their chronological order, are assessment, budget, levy, and collection. The assessment is the determination of what property is taxable and the value thereof. The budget is the appropriation of money for expenditures for the next calendar year. The levy is the charging of a certain amount of taxes against each \$100 of assessed valuation to raise the money required for the budget. The collection involves the voluntary payment and also proceedings to compel payment.

Assessment of real and personal property for county purposes also serves as the assessment for state, township, city, and town purposes.³⁷² Personal property is assessed each year as of the first day of March.³⁷³ Though real estate is not re-assessed every year (the old assessment remaining in effect until changed), the lien for taxes thereon dates from March 1.³⁷⁴ All property, real and personal, is required to be assessed at the true cash value thereof.³⁷⁵

Railroad, telephone, express, telegraph, sleeping car, pipe line, car equipment (tank, refrigerator, freight), and "public utility" (heat, light, water, power, elevator, and warehouse service).

In case of railroads, the state board assesses the railroad track and the rolling stock. Local authorities assess personal property that has a fixed location and also real estate outside of the property denominated "railroad track."

The state board assesses the personal and intangible properties of the other specified companies. Their other property is assessed by local authorities.

Municipally owned utilities are assessed by the state board for state and county levies. Such utilities are not subject to township, school city, civil city, or other levies.

Car equipment companies pay a tax of two percent on their assessed value direct to the state department of treasury.

Except as to the car equipment companies, the assessment of the state board is certified to the county auditor who apportions it among the several townships, towns, and cities entitled to a levy thereon, and places such assessments on the tax duplicate; and thereafter the tax is collected by the county treasurer. Acts 1913, 1933; Burns 54-610(d); Baldwin 14027(d). Acts 1919, 1921, 1923, 1932 (Spec. Sess.); Burns 64-703 to 64-740; Baldwin 15617 to 15654.

³⁷¹ Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1925, 1927, 1931; Burns 64-1301 to 64-1338; Baldwin 15705 to 15737, 12490 to 12492, 12522, 12527. Acts 1935; Burns, 1939 suppl., 64-1313, 64-1321, 64-1324, 64-1325, 64-1331; Baldwin, 1935 suppl., 15717, 15725, 15728, 15729, 15735.

³⁷² Acts 1919; Burns 64-2814; Baldwin 15877.

³⁷³ Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

³⁷⁴ Acts 1919, 1920 (Spec. Sess.); Burns 64-2825; Baldwin 15886.

³⁷⁵ Acts 1919; Burns 64-103, 64-1009; Baldwin 15516, 15675. Acts 1937; Burns, 1939 suppl., 64-1019b; Baldwin, 1937 suppl., 15685-2.

Since personal property and real property are assessed differently, they will be discussed separately, beginning with personal property.

Personal property must be listed for taxation between March 1 and May 15 each year, with reference to the quantity and quality owned on March 1.³⁷⁶ Each township assessor calls on the taxpayers and furnishes them with blanks for listing personal property. The taxpayer must list, under oath, all personal property held, possessed, or controlled by him, and state what he deems the true cash value of each item. Ordinarily the valuation of the taxpayer is excepted if it is in reason, but the assessor may fix a different valuation. If no list is given by the taxpayer or if the assessor doubts the correctness of the list, he may examine, under oath, the taxpayer and other persons concerning such property, and set down and assess to such person such amount of personal property as he may deem just.³⁷⁷ If the taxpayer refuses to make a return or oath required by law, the assessor makes a note of such refusal, and the auditor adds 50 percent to the valuation returned by the assessor.³⁷⁸

After giving notice to the taxpayer, omitted personal property may be assessed by the township assessor,³⁷⁹ county assessor,³⁸⁰ auditor,³⁸¹ treasurer,³⁸² or board of review;³⁸³ and appeal from such assessment may be taken to the circuit court or superior court on the question of whether such omitted property is taxable.³⁸⁴

The county assessor advises and instructs all township assessors in the county; and for this purpose visits each township assessor during March and April each year. The county assessor endeavors to cause uniformity and equality of assessment by the several township assessors.³⁸⁵

³⁷⁶ Acts 1919; Burns 64-401; Baldwin, 15524.

³⁷⁷ Acts 1919; Burns 64-601 to 64-604, 64-610; Baldwin 15569 to 15572, 15578.

³⁷⁸ Acts 1919; Burns 64-610; Baldwin 15578.

³⁷⁹ Acts 1919; Burns 64-1025; Baldwin 15692.

³⁸⁰ Acts 1919; Burns 64-1102; Baldwin 15698.

³⁸¹ Acts 1919; Burns 64-1402; Baldwin 15739.

³⁸² Acts 1919; Burns 64-2102; Baldwin 15803.

³⁸³ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

³⁸⁴ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin

1476. Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the limitation on the scope of the appeal was suggested by Philip Zoercher, chairman of state board of tax commissioners.

³⁸⁵ Acts 1919, 1921; Burns 64-1001, 64-1102; Baldwin 15666, 15698.

The board of review, after giving two weeks' notice, meets on the first Monday in June each year. The board reviews the assessment of personal property, hears complaints of owners, reduces or increases valuations, equalizes valuations, corrects and completes the tax lists, and assesses omitted property. Notice must be given by the auditor to the owner before the board of review assesses omitted property or raises valuations.³⁸⁶ Any person dissatisfied with the decision of the board of review may appeal to the state board of tax commissioners. Hearings on such appeals are, when possible, held in the auditor's office in the county from which the appeal was taken. The amount fixed by the state board is the final assessment of such property.³⁸⁷

The county auditor, on or before March 1 each year, makes out and delivers to the township assessors lists of lands entered on the duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. In each township having a population of 35,000 or containing a city of the second class (Center), the list is made out by the township assessor and furnished to the auditor, who returns it to the assessor after making the tax duplicate.³⁸⁸

The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels of real estate therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.³⁸⁹ For taxation purposes the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. A fee of 10 cents is charged for each instrument so entered.³⁹⁰ On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.³⁹¹

Each township assessor is required to call on every per-

³⁸⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

³⁸⁷ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

³⁸⁸ Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

³⁸⁹ *Ibid.*

³⁹⁰ Acts 1919; Burns 64-1409; Baldwin 15746.

³⁹¹ Acts 1921; Burns 64-519; Baldwin 14777.

son residing in his township for a list of lands owned by such person in such township subject to taxation. If such person fails to furnish such list within five days after being called on, as notified to do, the assessor may make the list according to the best information he can obtain, and the auditor must add 25 percent to the valuation of such lands as returned by the assessor.⁸⁹²

Each township assessor must, on or before the first Monday in June in each year, make out and deliver to the auditor, in a book furnished by the auditor, a return of the real estate so listed, containing the names of property owners, description, and value of each parcel as determined by the assessor from actual view.⁸⁹³

The law provides that "re-assessment of real estate shall not be made oftener than every four years or in any year in which there is a general election held for the election of any state, county, or township officials, except upon the order of the state board of tax commissioners and as hereinafter provided."⁸⁹⁴ The last general re-assessment of real estate in Indiana was made in 1932.⁸⁹⁵

Each person charged with making assessment valuations of real estate for taxation is charged with the duty of correcting all clerical errors as to description of property and name of owner. A notation is made showing any change of ownership since the last assessment. Each township assessor, after giving notice to the occupant of the land or the resident of the county claiming ownership, assesses any real estate or improvements found omitted, and makes a return thereof to the auditor as of the year when the same should have been first assessed.⁸⁹⁶ The county assessor,⁸⁹⁷ auditor,⁸⁹⁸ treasurer,⁸⁹⁹ and board of review⁴⁰⁰ also have power

⁸⁹² Acts 1919; Burns 64-1008; Baldwin 15674.

⁸⁹³ Acts 1919; Burns 64-1016; Baldwin 15682.

⁸⁹⁴ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl.,

15685.

⁸⁹⁵ Interview of May 18, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

⁸⁹⁶ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl.,

15685. Acts 1919; Burns 64-1025; Baldwin 15692.

⁸⁹⁷ Acts 1919; Burns 64-1102; Baldwin 15698.

⁸⁹⁸ Acts 1919; Burns 64-1402; Baldwin 15739.

⁸⁹⁹ Acts 1919; Burns 64-2102; Baldwin 15803.

⁴⁰⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin, 15700.

to assess omitted real property after giving notice. The auditor makes assessment of any newly platted additions to any city or town.⁴⁰¹ The assessments of omitted real property by the township assessors, county assessor, auditor, and treasurer may be reviewed and revised at the next meeting of the board of review.⁴⁰² The decision of the board of review in reviewing such assessment or in making an original assessment of omitted real property may be reviewed by the state board of tax commissioners in the manner provided for review of decisions concerning personal property, discussed above.⁴⁰³ From any assessment of omitted real property, appeal may be taken to the circuit court or superior court on the question whether such property is taxable.⁴⁰⁴

In case of flood, fire, or other disaster in which a substantial amount of property in any township has been partially or totally destroyed, the state board of tax commissioners must order a survey, determine the locality in which the property has been partially or totally destroyed, and order re-assessment of all or part of the property in such township.⁴⁰⁵

The state board, after March 31 of a year in which a general election is not held, may, without petition of taxpayers, order a hearing on the necessity of re-assessment for the whole state or for any of the counties or townships thereof. A hearing is held, after notice thereof, in each county in which the affected property is located. The board may then order re-assessment.⁴⁰⁶

Any person may, before March 31 in any year, file with the state board of tax commissioners a petition for re-assessment of his real estate. At the hearing the petitioner must show cause for re-assessment. Other taxpayers may be heard in opposition. The board may then order the re-assessment

⁴⁰¹ Acts 1919; Burns 64-1027; Baldwin 15691.

⁴⁰² Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

⁴⁰³ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

⁴⁰⁴ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the limitation on the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

⁴⁰⁵ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(c); Baldwin, 1937 suppl., 15685(c).

⁴⁰⁶ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(b); Baldwin, 1937 suppl., 15685(b).

petitioned for. This is the only method for obtaining re-assessment of particular real estate.⁴⁰⁷

A petition for re-assessment of all real estate in a township, signed by the necessary percentage—it varies in different townships—of the resident owners of taxable real estate of such township and bearing a certificate of the auditor as to the required number of signers, may be filed with the state board of tax commissioners before March 31 in any year in which there is no general election of state, county, or township officials. If it appears to the board that the petition is in proper order and that the present valuation is inequitable, the board will order re-assessment of all or part of the real estate in the township.⁴⁰⁸

Within ten days after the valuation of real or personal property is determined by the board of review or state board of tax commissioners, the owner may appeal to the circuit court or superior court on questions of law concerning such valuation.⁴⁰⁹

There are a great many statutory provisions concerning exemptions from property taxes, and space will permit only a brief discussion thereof. The following property is exempt from property taxes: Property of the United States and the State of Indiana; property of any county, city, town, or township—except municipally owned utilities; lands granted for the use of the common schools; real and personal property (including dormitories) actually used by schools and colleges; property used (or devised to be used) exclusively for educational, literary, scientific, religious, or charitable purposes; property of agricultural associations, cemetery associations, soldiers' and sailors' memorial associations; property of associations such as the American Legion, Young Men's Christian Association, and Knights of Columbus; property of fraternal beneficiary associations, college fraternities, and college sororities; historical sites maintained for nonprofit public exhibition; property used exclusively for the purpose of a public library; property owned and used exclusively by the Indiana National Guard or other military organization for armory purposes; bonds and notes issued by any municipality

⁴⁰⁷ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(d); Baldwin, 1937 suppl., 15685(d).

⁴⁰⁸ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(a); Baldwin, 1937, suppl., 15685(a).

⁴⁰⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1937. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1927; Burns 64-1020; Baldwin 15686.

or taxing district of the state for certain purposes; and certain annuities payable by religious or charitable organizations.⁴¹⁰ Sworn statements to obtain such exemptions must be filed with the auditor on or before the first day of March each year.⁴¹¹

Any Indiana resident owning real estate encumbered by a mortgage may have the amount of the mortgage, not exceeding \$1,000 and not exceeding one-half the assessed valuation, existing and unpaid on the first day of March, deducted from the assessed valuation for that year, by filing with the auditor between the first day of March and the first Monday in May a sworn statement in the form required by law.⁴¹²

The county auditor, not later than September 1 each year, apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.⁴¹³

The county council, at its annual meeting in August, adopts a budget, establishes the tax rate, and makes tax levies for the succeeding calendar year. The auditor then schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.⁴¹⁴

Appeal from the action of the county council may be taken to the state board of tax commissioners. The board, after hearing the objections, may affirm or decrease the total tax levy or any item thereof. The decision of the board, which is final and conclusive "with respect to said levies and such parts thereof as may have been in question", is certified to the auditor, and the auditor certifies it to the taxing units interested therein. When the state board orders a reduction

⁴¹⁰ Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201; Baldwin, 1937 suppl., 15518.

⁴¹¹ Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

⁴¹² Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567.

Under the 1919 act the owner was not required to be a resident of Indiana in order to obtain a mortgage exemption. Acts 1919; Burns 64-209; Baldwin 15565.

⁴¹³ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

⁴¹⁴ Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

in the levy, it indicates the items in the budget affected by such reduction; and this limits the expenditures for the year, except in cases of extraordinary emergency.⁴¹⁵

The laws discussed in the next four paragraphs do not apply to levies and rates to meet the following: (1) Funding, refunding, or judgment funding obligations; (2) "outstanding obligations"; (3) judgments; (4) obligations issued to meet emergency growing out of flood, fire, pestilence, war, or other major disaster; (5) obligations issued on petition under this act; (6) requirements of the county welfare fund for public welfare services. It is the duty of the county council to levy an amount sufficient to meet such purposes, regardless of any statutory provisions to the contrary.⁴¹⁶

Except on authorization of the state board of tax commissioners, the total tax rate for all purposes cannot exceed \$1.25 on each \$100 of taxable property outside incorporated cities and towns or \$2 on each \$100 of taxable property inside incorporated cities and towns.⁴¹⁷

At least two days before the second Monday in September, each municipal corporation⁴¹⁸ of the county files with the county auditor a statement of the tax levies and rates for the ensuing year, fixed by such municipal corporations, and at least two copies of the budgets on which such levies are based.⁴¹⁹ The board of tax adjustment meets on the second Monday of September each year. At the meeting the auditor lays before the board the said budgets, tax levies, and rates.⁴²⁰ It is the duty of the board of tax adjustment to examine, revise, change, or reduce (but not increase) any budget, tax levy, or rate, and to hold such budget within the total amount of revenue to be raised therefor from any source whatever. Any changes in budgets must be with respect to the total amounts budgeted for each office, and not the detailed items included in such budgeted classifications. While the board of tax adjustment endeavors to keep the rates within the limits above stated, if it decides that

⁴¹⁵ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

⁴¹⁶ Acts 1937; Burns, 1939 suppl., 64-312, 64-313; Baldwin, 1937 suppl., 15897-6, 15897-7.

⁴¹⁷ Acts 1937; Burns, 1939 suppl., 64-309; Baldwin, 1937 suppl., 15897-3.

⁴¹⁸ The term "municipal corporation" includes counties, townships, cities, towns, school districts, and all taxing units within the state. Acts 1933; Burns 64-302; Baldwin 15893.

⁴¹⁹ Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

⁴²⁰ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

such rates are inadequate, it certifies to the state board of tax commissioners its analysis and recommendations together with such data and facts as may be deemed essential to review. The state board then reviews the budgets and proceeds according to the provisions governing appeals, and may authorize rates beyond the said limits.⁴²¹

If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the levies and rates to the said limits, then the auditor calculates and fixes the rates, so that the total tax rate on property within any municipal corporation does not exceed said limits, and certifies his action to each municipal corporation before October 6. Before October 16, appeal to the state board of tax commissioners may be taken by the municipal corporation or by 10 or more taxpayers. On the hearing of such appeals, the state board "may revise, change, or increase" the levy and rate in respect to total amounts budgeted by each office or department, and not as to detailed items. The levy and rate must be kept within the limit originally fixed by the municipal corporation. The state board certifies its decision to the county auditor before December 1, if possible. The budget, levy, and rate thereby fixed are final.⁴²²

After the budget, levy, and rate for each municipal corporation have been finally fixed and determined, as aforesaid, the appropriating body of each municipal corporation allocates the funds to be derived from such levy in such manner that the expenditures for the ensuing year will remain within the limitations as finally fixed in the manner stated in the two preceding paragraphs.⁴²³

If the county council determines that emergency exists requiring expenditures for the current year not authorized by the budget as originally established, or as modified by the state board of tax commissioners, the council may make an additional appropriation and levy. The auditor then certifies the matter to the state board, and its decision thereon is final and conclusive.⁴²⁴

The auditor, between the first Monday in July and the

⁴²¹ Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

⁴²² Acts 1937; Burns, 1939 suppl., 64-311; 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

⁴²³ Acts 1937; Burns, 1939 suppl., 64-315; Baldwin, 1937 suppl., 15897-9.

⁴²⁴ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

last day of December, makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate. This contains several columns, and shows the names of taxpayers in alphabetical order, lands and improvements, mortgage deductions, corporate stock, personal property, valuations, poll tax, assessments of omitted property, land transfers since the last assessment, and all alterations in the assessment lists made by the board of review or the state board of tax commissioners. He numbers each township, city, and town in regular procession. On or before January 1, the county auditor delivers to the auditor of state a complete abstract of all property listed in each township, city, and town, showing valuations, mortgage deductions, number of polls, the amount of each kind of tax, the aggregate thereof in the county, and the rate of each kind assessed. A copy of the abstract is delivered to the treasurer, and another copy is kept by the county auditor.⁴²⁵

Property taxes for state, county, township, city, and town purposes are payable to the county treasurer in two equal installments on or before the first Monday in May and the first Monday in November, respectively, in the year following the year for which the property was assessed. If any installment is not paid when it becomes due, such installment becomes delinquent, and a penalty of eight percent of such installment is added.⁴²⁶

It is the duty of the county treasurer to collect all such property taxes after they become delinquent. He may levy on personal property at any time after the tax becomes delinquent, or before delinquency if he has good reason to believe the taxpayer is about to leave the county without payment, and sell the same after 10 days' notice of the time and place of sale. Suit in the name of the treasurer may be brought by the prosecuting attorney to collect taxes. Real estate may be sold at a tax sale, on the second Monday in April, after advertisement, but not until 15 months have elapsed since delinquency.⁴²⁷ The owner or occupant of any land sold for taxes, or any other person having an interest therein, may

⁴²⁵ Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

⁴²⁶ Acts 1919; Burns 64-1502; Baldwin 15748. Acts 1932 (Spec. Sess.), Burns 64-1508; Baldwin 15751. Acts 1935; Burns, 1939 suppl., 64-1542; Baldwin, 1935 suppl., 15765-1.

⁴²⁷ Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807.

redeem the same at any time within two years after the sale. The redeemer must pay to the treasurer the amount paid by the purchaser (as shown in the tax sale certificate), plus the cost of sale, plus a percentage of the purchase price and cost of sale (10 percent if redeemed within six months after the sale, 15 percent if redeemed six months to one year after the sale, or 25 percent if redeemed one to two years after the sale), plus any subsequent taxes paid by the certificate holder, plus interest on such subsequent taxes at the rate of six percent per annum. The money so paid to the treasurer is paid by him to the holder of the redeemed tax certificate.⁴²⁸

EXCISE TAXES AND LICENSING

The tax on financial institutions is an excise tax⁴²⁹ (in lieu of all other taxes) on banks, trust companies, and building and loan associations. It is administered by the county auditor and county treasurer under the supervision of the state board of tax commissioners.⁴³⁰

The inheritance tax is an excise tax administered by the county assessor and the county treasurer, under the supervision of the state board of tax commissioners, and by the circuit court. Schedule must be filed with the court within 12 months after the death of the decedent. Notice is given to the interested parties, the estate is appraised, and the court determines the amount of tax due. The court appoints the county assessor to act as the appraiser in every estate; and he appraises all property at the fair market value, as of the date of the transfer.⁴³¹ The appraiser makes his report in duplicate, one copy to the court and one copy to the state board of tax commissioners.⁴³² The treasurer collects the tax and issues a receipt in duplicate, one copy of which is sent to the state board; and no final accounting of an estate is made until such receipt is countersigned by that board.⁴³³ The

⁴²⁸ Acts 1919; Burns 64-2301; Baldwin 15819.

Infants, idiots, and insane persons may redeem their lands within two years after expiration of disability. Acts 1919; Burns 64-2302; Baldwin 15820.

⁴²⁹ Lutz v. Arnold (1935), 208 Ind. 480, 193 N. E. 840.

⁴³⁰ Acts 1933; Burns 64-801 to 64-834; Baldwin 15582 to 15615.

⁴³¹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1931, 1933; Burns 6-2408; Baldwin 15946. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

⁴³² Acts 1931; Burns 6-2410; Baldwin 15948.

⁴³³ Acts 1931; Burns 6-2413; Baldwin 15951.

county treasurer must report quarterly to the auditor of state all inheritance taxes received by him. All such collected taxes are transmitted by the county treasurer, by warrant issued by the county auditor, to the treasurer of state.⁴³⁴ When directed by the court to do so, the prosecuting attorney sues to collect the tax.⁴³⁵

The intangible tax (excise tax)⁴³⁶ is a stamp tax on notes, stocks, bonds, and other evidences of property interests or obligations for payment of money. This tax is administered by the county assessor⁴³⁷ and the county treasurer, under the supervision of the state board of tax commissioners. Stamps are issued by the state board and sold by the county treasurer.⁴³⁸ The taxpayer is required to file with his tangible personal property schedule an affidavit showing that he has complied with the intangible tax law.⁴³⁹ If the tax is not paid when due, it is entered on the tax duplicate of the county where the taxpayer resides or his property is located. Omitted property may be assessed by any officer of the county having authority under the general taxing laws to assess omitted property or by the state board of tax commissioners.⁴⁴⁰ In case of nonpayment, suit for collection may be brought by the prosecuting attorney or the attorney general.⁴⁴¹

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes, each township assessor makes inquiry concerning dogs and kennels, and collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The county auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.⁴⁴² The money so collected constitutes a fund known as the "dog fund", and is used to pay for damage to livestock caused by dogs. Dog funds exceeding \$100, over and above the amount of all warrants drawn on the same, in any

⁴³⁴ Acts 1931; Burns 6-2414; Baldwin 15952.

⁴³⁵ Acts 1931; Burns 6-2415; Baldwin 15953.

⁴³⁶ Lutz v. Arnold (1935), 208 Ind. 480, 193 N. E. 840.

⁴³⁷ Acts 1933; Burns 64-917; Baldwin 15915. Acts 1933, 1935; Burns, 1939 suppl., 64-906;

Baldwin, 1935 suppl., 15904.

⁴³⁸ Acts 1933; Burns, 64-924, 64-927; Baldwin 15922, 15925.

⁴³⁹ Acts 1933; Burns 64-918; Baldwin 15916.

⁴⁴⁰ Acts 1933, 1935; Burns, 1939 suppl., 64-915; Baldwin, 1935 suppl., 15913.

⁴⁴¹ Acts 1933; Burns 64-921; Baldwin 15919.

⁴⁴² Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

township on the first Monday in March are transferred on the following Monday to townships in which the dog fund is less than the amount of the warrants drawn thereon.⁴⁴⁸

The clerk of the circuit court issues licenses for marriages,⁴⁴⁴ physicians, surgeons,⁴⁴⁵ midwives,⁴⁴⁶ osteopaths,⁴⁴⁷ chiropractors, drugless healers,⁴⁴⁸ dentists,⁴⁴⁹ optometrists,⁴⁵⁰ hunting, trapping, fishing,⁴⁵¹ poultry dealers,⁴⁵² and junk dealers.⁴⁵³ He registers certificates of trained nurses.⁴⁵⁴ Formerly he issued liquor licenses,⁴⁵⁵ brokers' licenses,⁴⁵⁶ firearms permits,⁴⁵⁷ licenses for veterinarians,⁴⁵⁸ stallions,⁴⁵⁹ and petty money lenders,⁴⁶⁰ and kept a register of certificates of agents of foreign insurance companies.⁴⁶¹

⁴⁴³ Acts 1937; Burns, 1939 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8 to 3811-10.

⁴⁴⁴ Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852; Burns 44-201; Baldwin 5622.

⁴⁴⁵ Acts 1831, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

⁴⁴⁶ Acts 1897; Burns 63-1309; Baldwin 10709.

⁴⁴⁷ Acts 1901; Burns 63-1316; Baldwin 10716.

⁴⁴⁸ Acts 1927; Burns 63-1312; Baldwin 10713.

⁴⁴⁹ Acts 1899, ch. 211, secs. 5, 7 to 11. Acts 1913, 1931, 1935; Burns, 1939 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

⁴⁵⁰ Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1939 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

⁴⁵¹ Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the Acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

⁴⁵² Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

⁴⁵³ Acts 1905; Burns 42-703; Baldwin 10462.

⁴⁵⁴ Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

⁴⁵⁵ Acts 1820-21, ch. 36, secs. 1, 2. Pharmacists' liquor licenses. Acts 1917, ch. 4, secs. 6, 12.

⁴⁵⁶ Acts 1840-41 (general), ch. 5, sec. 18.

⁴⁵⁷ Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21).

⁴⁵⁸ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

⁴⁵⁹ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

⁴⁶⁰ Acts 1913, ch. 167, secs. 1 to 4 (repealed by Acts 1917, ch. 125, sec. 6).

⁴⁶¹ Acts 1901, ch. 180, sec. 1 (repealed by Acts 1935, ch. 162, sec. 276). Acts 1903, ch.

The county auditor issues licenses for peddlers, shows, theaters,⁴⁶² and transient merchants,⁴⁶³ and permits for public warehouses.⁴⁶⁴ Formerly he issued liquor licenses,⁴⁶⁵ and received and filed remonstrances against issuance of saloon licenses by the board of commissioners.⁴⁶⁶

FEES

The laws provide for the charging of fees by various county officials. Salaried officials cannot disburse their fees for office expense, or retain the fees or interest thereon as compensation, unless a statute specifically authorizes them to do so. Such fees must be paid into the county treasury. The officer cannot draw any salary while illegally withholding fees.⁴⁶⁷

County officials may charge and collect only such fees as are allowed by statute.⁴⁶⁸ If an officer collects illegal fees, the county cannot recover them from such officer, since they belong to the person paying the same.⁴⁶⁹ If the officer unlawfully refuses to pay over fees collected by him, an action lies on his bond;⁴⁷⁰ and if he pays over fees which he

66, sec. 1 (repealed by Acts 1935, ch. 162, sec. 276). Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567 (repealed by Acts 1935, ch. 162, sec. 276).

⁴⁶² 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470-1, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

⁴⁶³ Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

⁴⁶⁴ Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

⁴⁶⁵ Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. Padgett v. State (1884), 93 Ind. 396.

⁴⁶⁶ Acts 1905, ch. 6, sec. 1.

⁴⁶⁷ Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1895; Burns 49-1410; Baldwin 7585. Keifer v. Summers (1894), 137 Ind. 106, 35 N. E. 1103; Applegate v. State *ex rel.* Pettijohn (1933), 205 Ind. 122, 185 N. E. 911; Board of County Comrs. v. Lewis (1924), 81 Ind. App. 601, 144 N. E. 623.

⁴⁶⁸ Noble v. Board of County Comrs. (1885), 101 Ind. 127; Legler v. Paine (1896), 147 Ind. 181, 45 N. E. 604.

⁴⁶⁹ State *ex rel.* Board of County Comrs. v. Williams (1906), 39 Ind. App. 376, 77 N. E. 1137.

⁴⁷⁰ Acts 1883; Burns 49-142; Baldwin 13034. Workman v. State *ex rel.* Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

is entitled to retain, he may sue to recover the same.⁴⁷¹

All officers are required to keep complete records of all fees received from any source whatever. Such records are subject to public inspection at any time.⁴⁷²

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.⁴⁷³ The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for two years. The auditor enters such lists on the order book (commonly called the "Commissioners' Record") of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the county treasurer.⁴⁷⁴

FUNDS RECEIVED FROM THE STATE

The counties receive from the state a portion of the funds in the motor vehicle highway account of the state. This account is composed of excise taxes on motor vehicle fuel, motor vehicles, operators, and chauffeurs.⁴⁷⁵ The portion allotted to the counties is distributed on the basis of vehicular miles of county roads in each county as compared with the total in all of the counties. The 1937 law recites that there are 101,233 miles in Delaware County and 4,536,856 miles in all of the counties, but provision is made for a recount by the state highway commission and a change in allocation based thereon.⁴⁷⁶ Such funds are used by the county for construction and maintenance of county roads; and 20 percent of such funds may be used to pay off outstanding county-unit road bonds.⁴⁷⁷

⁴⁷¹ Board of County Comrs. v. Crone (1905), 36 Ind. App. 283, 75 N. E. 826.

⁴⁷² Acts 1895; Burns 49-1401, 49-1409; Baldwin 7576, 7584. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Acts 1909; Burns 60-213; Baldwin 13864.

⁴⁷³ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

⁴⁷⁴ Acts 1841-42 (general), ch. 45, secs. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

⁴⁷⁵ Acts 1937; Burns, 1939 suppl., 36-2801; Baldwin, 1937 suppl., 8695-1.

⁴⁷⁶ Acts 1937; Burns, 1939 suppl., 36-2808; Baldwin, 1937 suppl., 8695-8.

⁴⁷⁷ Acts 1937, 1939; Burns, 1939 suppl., 36-2804 to 36-2806; Baldwin, 1939 suppl., 8695-4; Baldwin, 1937 suppl., 8695-5, 8695-6.

The counties receive from the state a portion of the license fees on liquor dealers. Distribution among the counties is based on the amount paid in for licenses with respect to dealers' premises located outside cities and towns in each county, as compared with the total for such areas in all counties.⁴⁷⁸

The counties receive a portion of the intangible tax. Distribution among the counties is on a basis of assessed valuation of the real property in each county, as compared to the total in all counties. One-fourth of the amount received by the county goes into the general fund of the county, and the remainder goes to the school funds of the township, city, and town taxing units on a basis of valuation of the real property in each.⁴⁷⁹

Each county receives from the state, as reimbursement, about 81 percent of the money spent by the county for welfare assistance.⁴⁸⁰

Distribution of the income from the common school fund surplus by the state to the several counties for school purposes is on the basis of average daily attendance of children in grades one to 12 in the schools of the respective counties.⁴⁸¹ School funds are discussed hereinafter under the heading "Education."

CLAIMS AND ALLOWANCES

Claims against the county, duly itemized and verified, in writing on forms furnished by the board of commissioners, may be filed with the county auditor, who places them on the claim docket and thereafter presents them to the commissioners for their decision. At a regular or special session of the board of commissioners, beginning at least five days after the docketing of the claim and three days after publication of notice by the auditor, the commissioners must examine the merits of the claim and may, in their discretion, allow it, in whole or in part, as they find it to be just and owing.⁴⁸² The

⁴⁷⁸ Acts 1935; Burns, 1939 suppl., 12-811; Baldwin, 1935 suppl., 3764-40(f).

⁴⁷⁹ Acts 1933; Burns 64-922; Baldwin 15920.

⁴⁸⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1405, 52-1412; Baldwin, 1937 suppl., 14078-117, 14078-124. This percentage was stated by the auditor of state in an interview on March 31, 1939.

⁴⁸¹ Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

⁴⁸² Acts 1899; Burns 26-538, 26 804; Baldwin 5403, 5256. Acts 1879 (Spec. Sess.); Burns 26-805, 26-807; Baldwin 5256. Acts 1897; Burns 26-806, 26-809; Baldwin 5260, 5257. Acts 1931; Burns 26-816 to 26-819; Baldwin 5268 to 5271.

board cannot allow a claim that it previously disallowed.⁴⁸³

A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.⁴⁸⁴

A claim on a contract for work to be conducted under the supervision of the county surveyor, or any architect, engineer, superintendent, or inspector appointed by the board of commissioners, must be accompanied by a certificate of the surveyor or such agent, showing that the work therein mentioned was performed according to contract and that the amount claimed is due and owing by the terms of the contract.⁴⁸⁵ A claim based on a judgment or order of a court must be accompanied by a certified copy of such judgment or order.⁴⁸⁶

For the amount allowed by the board of commissioners, the auditor, after appropriation by the county council, issues a warrant which is countersigned by the treasurer and paid by the treasurer or a public depository designated thereon by him.⁴⁸⁷ An allowance not called for within five years may be cancelled.⁴⁸⁸ Preference in payment is given to claims for money advanced by any county officer for the use of the county pursuant to provisions of law or of any order of the board.⁴⁸⁹ However, no allowance can be made by the board of commissioners to one of its members for articles furnished by him to the county under a contract or otherwise.⁴⁹⁰

Any person feeling aggrieved by any decision of the board on any claim may appeal to the circuit court or superior court. In case of disallowance in whole or in part, the claimant may appeal as aforesaid or bring an independent suit against the board. The claimant must pay the costs of the appeal if he does not recover more on the appeal than was allowed by the board.⁴⁹¹ No complaint other than the claim (including

⁴⁸³ Myers v. Gibson (1899), 152 Ind. 500, 53 N. E. 646.

⁴⁸⁴ Acts 1899; Burns 26-538; Baldwin 5403.

⁴⁸⁵ Acts 1899; Burns 26-539; Baldwin 5404.

⁴⁸⁶ Acts 1911; Burns 26-814; Baldwin 5265.

⁴⁸⁷ Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. Acts 1937; Burns, 1939 suppl.,

61-627; Baldwin, 1937 suppl., 13844-48.

⁴⁸⁸ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁴⁸⁹ 1 Rev. Stat. 1852; Burns 26-802; Baldwin 5252.

⁴⁹⁰ Waymire v. Powell (1886), 105 Ind. 328, 4 N. E. 886.

⁴⁹¹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

certificates and exhibits, if any) presented to the board is required on appeal.⁴⁹² If the board allows only a part of the claim, and the claimant accepts payment of the amount allowed, he cannot bring suit for the remainder.⁴⁹³

In pursuance of appropriations by the county council,⁴⁹⁴ courts make allowances against the county for expense of administration of justice.⁴⁹⁵ Such allowances include fees of witnesses,⁴⁹⁶ jurors,⁴⁹⁷ master commissioners,⁴⁹⁸ sheriffs,⁴⁹⁹ bailiffs,⁵⁰⁰ and salary of the court reporter⁵⁰¹ and his fees covering transcripts for poor persons.⁵⁰²

Within 10 days after adjournment of the session of the board of commissioners or of the court, at which allowances against the county are made, the auditor publishes notice showing all allowances made by the board or court. A warrant on an allowance by a court cannot be issued until three days after such publication.⁵⁰³

CUSTODY AND DISBURSEMENT OF FUNDS

The treasurer receives all money coming to the county, and disburses it on proper warrants (formerly called orders) issued and attested by the auditor.⁵⁰⁴

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.⁵⁰⁵

⁴⁹² Board of County Comrs. v. Wertz (1887), 112 Ind. 268, 13 N. E. 874.

⁴⁹³ Western Constr. Co. v. Board of County Comrs. (1912), 178 Ind. 684, 98 N. E. 347.

⁴⁹⁴ Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

⁴⁹⁵ Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 59-2709; Baldwin 1436.

⁴⁹⁶ 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

⁴⁹⁷ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

⁴⁹⁸ Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

⁴⁹⁹ Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

⁵⁰⁰ Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895,

1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496.

⁵⁰¹ Acts 1921, 1939; Burns, 1939 suppl., 4-3107; Baldwin, 1939 suppl., 1298-1.

⁵⁰² Acts 1893; Burns 4-3511; Baldwin 1300.

⁵⁰³ Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817; Baldwin 5269.

⁵⁰⁴ Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103; Baldwin 5550. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 1884-48.

⁵⁰⁵ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 1384-50.

The board designates depositories for public funds, after inviting and receiving proposals from banks and trust companies. The commission of a depository may be revoked by the board at any time.⁵⁰⁶ The resignation of a depository becomes effective 30 days after notice thereof to the board.⁵⁰⁷ Monthly statements are furnished by the depository to the board on or before the fifth day of each month, and are preserved in the office of the board.⁵⁰⁸ All public funds paid into the county treasury must be deposited by the treasurer daily, in the name of the county, in one or more of such designated depositories. On or before the fifth day of each month, the treasurer must file with the secretary of the board a statement of the balance of funds at the end of the previous month, consistent with the statement furnished by the depository.⁵⁰⁹ The treasurer deposits quarterly with the auditor all redeemed warrants.⁵¹⁰

When the auditor draws a warrant, he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.⁵¹¹ Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.⁵¹² The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.⁵¹³ Before issuing a warrant or quistus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.⁵¹⁴

⁵⁰⁶ Acts 1937; Burns, 1939; suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

⁵⁰⁷ Acts 1937; Burns, 1939 suppl., 61-640; Baldwin, 1937 suppl., 13844-61.

⁵⁰⁸ Acts 1937; Burns, 1939 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

⁵⁰⁹ Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

⁵¹⁰ 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁵¹¹ Acts 1899; Burns 26-544; Baldwin 5409.

⁵¹² 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Interview of August 15, 1939 with E. P. Brennan, state examiner.

⁵¹³ 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

⁵¹⁴ Acts 1909; Burns 60-215; Baldwin 13866.

On claims (including claims on judgments) allowed by the board of commissioners, and on allowances made by courts for the cost of administration of justice, the auditor issues his warrant. But a warrant may be issued to pay a judgment, or for insanity inquests, salaries, management of the school fund, or for other liabilities for specific amounts fixed by law, when no allowance has been made as aforesaid.⁵¹⁵ Warrants not called for within five years after allowance of claim on which drawn may be cancelled by the board of commissioners, if not called for after publication of notice.⁵¹⁶

Warrants drawn by the auditor on the treasurer must be accompanied by a carbon copy thereof, except in the case of funds of the state and township. If funds are available to pay the warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable. The original warrant is delivered to the payee, and the amount thereof is paid to the payee by the depository on presentation and surrender of the warrant. For the convenience of the payee, the treasurer may pay cash to the holder, on taking an assignment of the warrant, in which event such warrant will be deposited by the treasurer in the depository in lieu of cash.⁵¹⁷ The treasurer must deduct any delinquent taxes owing by the payee.⁵¹⁸ If no funds are available to pay the warrant, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment; and thereafter the warrant draws legal interest. Interest ceases when funds become available for payment and the treasurer or auditor publishes a call for redemption.⁵¹⁹ Outstanding warrants are redeemed by the treasurer according to priority of time of presentment. Such warrants must be received in payment of county taxes without regard to such priority.⁵²⁰ When the treasurer redeems a warrant on which

⁵¹⁵ Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

⁵¹⁶ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁵¹⁷ 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

⁵¹⁸ Acts 1919; Burns 64-1506; Baldwin 15768.

⁵¹⁹ Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

⁵²⁰ 1 Rev. Stat. 1852; Burns 49-3113; Baldwin 5560.

interest is due, he makes a notation thereon, and also in his account, showing the amount of interest paid.⁵²¹

Every public officer who receives or distributes public funds must keep a cashbook wherein there is entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be kept open to public inspection.⁵²² The treasurer keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds. Current taxes are not entered on his account with the county until after his annual statement.⁵²³ The treasurer's books and office are subject to inspection by the board of commissioners 'at any time.'⁵²⁴ At the end of March, June, September, and December, the treasurer makes out a report showing the amount of money in the county treasury and each distinct fund thereof. The report is examined by the board of commissioners at their next regular session.⁵²⁵

The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.⁵²⁶

The board of commissioners, at its first regular session each year, makes out a statement of the receipts and expenditures for the previous calendar year, and causes it to be published and posted.⁵²⁷ The treasurer makes complete settlements with the board of commissioners at its January session each year.⁵²⁸ Settlements by the board of commissioners are not binding on the county where the officer has failed to account for any money received by virtue of his office or failed to perform any duty required of him by law.⁵²⁹

⁵²¹ 1 Rev. Stat. 1852; Burns 49-3112; Baldwin 5559.

⁵²² Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

⁵²³ 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

⁵²⁴ 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555.

⁵²⁵ Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

⁵²⁶ 1 Rev. Stat. 1852; Burns 49-3104; Baldwin 5551.

⁵²⁷ Acts 1899; Burns 26-546; Baldwin 5411.

⁵²⁸ Acts 1899; Burns 26-531; Baldwin 5395.

Formerly the settlement was made in June. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

The state board of accounts now requires that settlements be recorded in the monthly balance record of the auditor and treasurer. Interview of May 18, 1939 with E. P. Brennan, state examiner.

Formerly the settlements were recorded in the order book (commonly called the "Commissioners' Record") of the board of commissioners. Acts 1899; Burns 26-531; Baldwin 5395.

⁵²⁹ Acts 1879 (Spec. Sess.); Burns 26-637; Baldwin 5341.

All taxes collected by the treasurer must be deposited in the depository as one fund, except where otherwise provided by law. Semiannually the treasurer settles with the state and the municipal corporations of the county for taxes collected for them by the treasurer. Before such settlements, he advances not exceeding 80 percent when request by the proper officer is made to the auditor and a warrant is drawn by him.⁵³⁰

The books and accounts of county officers are audited, from time to time without notice, by the state examiner.⁵³¹ Before 1909 the board of commissioners performed this function.⁵³²

PUBLIC DEBT

The constitution provides that the total amount of the county debt shall not exceed two percent of the value of the taxable property therein,⁵³³ and a statute provides that such debt shall not exceed two percent of the taxable property less the total of all mortgage exemptions.⁵³⁴

The borrowing of money for the county must be authorized by ordinance of the county council.⁵³⁵ The notes, bonds, or other evidence of indebtedness are executed by the county commissioners and attested by the auditor.⁵³⁶ The obligations may bear interest at a rate not exceeding six percent per annum. If the interest rate exceeds five percent, the issuance must be approved by the state board of tax commissioners.⁵³⁷ The council may provide for maturities at any time not exceeding 52 years from issuance.⁵³⁸

The bonds are issued after publication of notice, and must be sold for an amount not less than par value and accrued interest. If the amount of the bond issue is to exceed \$5,000,

⁵³⁰ Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

⁵³¹ Acts 1909; Burns 60-211; Baldwin 13862.

⁵³² 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁵³³ Const., art. 13, sec. 1. Exception is made in case of war, foreign invasion, or other public calamity.

⁵³⁴ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

⁵³⁵ *Ibid.*

⁵³⁶ Acts 1899, 1921; Burns 26-540; Baldwin 5405.

⁵³⁷ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

⁵³⁸ Acts 1899, 1921, 1929; Burns 26-532, 61-401; Baldwin 5396, 13896.

and if 10 taxpayers file objections with the auditor, the objections will be certified to the state board of tax commissioners for hearing and disposition.⁵³⁹

Temporary loans may be authorized to meet current running expenses to an amount not exceeding the revenue for the current year, and only as an anticipation of such revenue. It is the duty of the county council each year to levy an annual tax to pay all such temporary loans.⁵⁴⁰

The county council must make a levy of not less than one-tenth of one percent on the taxable property of the county each year, for the purpose of retiring bonds previously issued; and the taxes collected therefrom must be invested in said bonds or other state or county securities, and shall constitute a sinking fund for the ultimate liquidation of such debt.⁵⁴¹ The council must also levy each year a tax sufficient to pay interest for the year on bonds previously issued. If more taxes are collected under this levy than are needed to pay interest, such excess goes into the sinking fund to pay the principal.⁵⁴²

ELECTIONS

In Indiana there are three types of elections, primary, special, and general. Primary elections are for the purpose of nominating party candidates for all offices (other than those to be voted on by the entire electorate of the state) and electing precinct committeemen and delegates to state party conventions. The primary election is mandatory for each political party in the state casting for its candidate for secretary of state 10 percent or more of the aggregate vote cast for all candidates for secretary of state in the last general election held for that office.⁵⁴³ Special elections are held to fill vacancies in the United States Congress, the Indiana General Assembly, in offices required to be filled by special election, and in all offices in case of a tie vote. They are ordered by the governor, announced by the sheriff, and conducted

⁵³⁹ Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

⁵⁴⁰ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

⁵⁴¹ 1 Rev. Stat. 1852, Acts 1859; Burns 26-1006; Baldwin 5247. Acts 1899; Burns 26-515; Baldwin 5379.

⁵⁴² 1 Rev. Stat. 1852; Burns 26-1007; Baldwin 5248.

⁵⁴³ Acts 1915; Burns 29-501; Baldwin 7187.

in the manner in which general elections are conducted.⁵⁴⁴ The general election, held biennially, is for the purpose of filling all existing vacancies in office, and all offices the terms of which will expire before the next general election thereafter.⁵⁴⁵

Primary elections are held on the first Tuesday after the first Monday in May preceding the general elections.⁵⁴⁶ They are held under the supervision of the board of primary election commissioners, consisting of the clerk of the circuit court and two persons, of opposite political parties, appointed by him. This board prepares and distributes ballots for the primary elections,⁵⁴⁷ and serves as the county board of election commissioners at the general election for which nominations are made at the primary election.⁵⁴⁸

General elections are held biennially on the first Tuesday after the first Monday in November of even-numbered years.⁵⁴⁹ County officers elected by the people are county commissioners, county councilmen, judges of the circuit and superior court, prosecuting attorney, clerk of the circuit court, auditor, treasurer, sheriff, coroner, recorder, surveyor, and assessor. These elections are held under the supervision of the county board of election commissioners, which prepares the county ballots and distributes the county and state ballots.⁵⁵⁰ The county board of election commissioners appoints the election officials for each precinct, namely, the precinct board of election (consisting of one inspector and two judges),⁵⁵¹ two poll clerks (and two assistant poll clerks if necessary),⁵⁵² and two election sheriffs.⁵⁵³ The election judges, poll clerks, and election sheriffs are of opposite political faith and are nominated by the chairmen of their respective county central committees. The inspector of elections is nominated by the chairman of the party casting the highest number of votes in the county in the last election for

⁵⁴⁴ Acts 1881 (Spec. Sess.); Burns 29-1701 to 29-1704; Baldwin 7246 to 7249.

⁵⁴⁵ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

⁵⁴⁶ Acts 1915, 1917; Burns 29-508; Baldwin 7194.

⁵⁴⁷ Acts 1907, ch. 282, secs. 1, 13. Acts 1915, 1917; Burns 29-504; Baldwin 7190.

⁵⁴⁸ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

⁵⁴⁹ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

⁵⁵⁰ Acts 1889; Burns 29-1002; Baldwin 7109.

⁵⁵¹ Acts 1929, 1933; Burns 29-804; Baldwin 7093.

⁵⁵² Acts 1929; Burns 29-805; Baldwin 7094.

⁵⁵³ Acts 1929; Burns 29-806; Baldwin 7095.

secretary of state.⁵⁵⁴ The township trustee is, ex officio, the election inspector in the precinct in which he resides.⁵⁵⁵

The constitution provides that all elections shall be free and equal, prescribes the length of residence required of an elector, designates the time of holding elections, and gives the general assembly power to provide for the registration of voters.⁵⁵⁶

All citizens of the United States, of the age of 21 years and upwards, resident in the state six months, in the township 60 days, and in the precinct 30 days, immediately preceding an election, are entitled to vote. Before 1921 all male persons of foreign birth who had resided in the United States one year and had the age and residence qualifications prescribe above, also could vote, if they had declared their intention to become naturalized.⁵⁵⁷ Soldiers, sailors, and marines acquire no residence in the state for voting purposes by virtue of being stationed therein.⁵⁵⁸ Registration is required of all voters.⁵⁵⁹ There were 49,000 registered voters in Delaware County for the general election in November 1938.⁵⁶⁰ The registration officer (the clerk of the circuit court ex officio) conducts the registration of voters.⁵⁶¹

The board of county commissioners participates in various ways in the conduct of elections. The more important functions of the board in that connection are those of establishing election precincts and changing their boundaries;⁵⁶² providing rooms for polling places and equipping them with voting booths and ballot boxes;⁵⁶³ and the purchase of voting machines for the several precincts.⁵⁶⁴

⁵⁵⁴ Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

⁵⁵⁵ Acts 1929, 1933; Burns 29-804; Baldwin 7093.

⁵⁵⁶ Const., art. 2, secs. 1, 2, 14.

⁵⁵⁷ Const., art. 2, sec. 2. Acts 1881 (Spec. Sess.); Burns 29-703; Baldwin 7083.

⁵⁵⁸ Const., art. 2, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-705; Baldwin 7085.

⁵⁵⁹ Acts 1933; Burns 29-301; Baldwin 7299.

⁵⁶⁰ *Year Book of the State of Indiana for the Year 1938* (1939), 1106.

⁵⁶¹ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

⁵⁶² Acts 1889, 1907; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

⁵⁶³ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

⁵⁶⁴ Acts 1939; Burns, 1939 suppl., 29-562; Baldwin, 1939 suppl., 7245-1. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

Any qualified and registered elector of the county, who by reason of the nature of his business is absent or expects to be absent from the county on the day of holding an election, may vote by an absent voter's ballot which he, by mail or in person, procures from the clerk of the circuit court.⁵⁶⁵

The board of canvassers (consisting of the election commissioners,⁵⁶⁶ with the clerk of the circuit court acting as clerk)⁵⁶⁷ tabulates and compiles the election returns of the county, and files all data, canvass sheets, certificates, poll books, and tally papers in the office of the clerk, and certifies the candidates elected.⁵⁶⁸

EDUCATION

The public school system of Indiana began with the Ordinance of 1787.⁵⁶⁹ The first financial support for a public school system came from sale of lands of section 16 of each Congressional township.⁵⁷⁰ Interest in education grew slowly before 1849. In that year the first state tax law for the support of schools was passed.⁵⁷¹ It was not until after the adoption of the Constitution of 1851 and the passage of the school law of 1852 that education received any serious attention from the state.⁵⁷² The school law of 1865 brought the most complete revision.⁵⁷³ The constitution provides that the general assembly shall encourage and provide for a general and uniform system of common schools.⁵⁷⁴

In 1816 the Congressional township fund was provided for the development of the public school system. The fund was composed of the proceeds of the sale of lands of section 16 of each Congressional township.⁵⁷⁵ The fund was not very

⁵⁶⁵ Acts 1935; Burns, 1939 suppl., 29-2601 to 29-2623; Baldwin, 1935 suppl., 7348-1 to 7348-23.

⁵⁶⁶ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁵⁶⁷ Acts 1905; Burns 29-1402; Baldwin 7378.

⁵⁶⁸ Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7361.

⁵⁶⁹ Ordinance of 1787, art. 3.

⁵⁷⁰ *U. S. Statutes at Large*, 3:289, sec. 6 (1); Burns, vol. 1, p. 302.

⁵⁷¹ Acts 1848-49 (general), ch. 116, sec. 1. Fassett A. Cotton, *Education in Indiana* (1934), 10.

⁵⁷² Const., art. 8. 1 Rev. Stat. 1852, ch. 98.

⁵⁷³ Acts 1865; Burns 28-101; Baldwin 6499.

⁵⁷⁴ Const., art. 8, sec. 1.

⁵⁷⁵ *U. S. Statutes at Large*, 3:289, sec. 6 (1); Burns, vol. 1, p. 302.

well handled during these years, and the public schools were allowed to struggle on as best they could.⁵⁷⁶

By 1850 the people of the state were convinced that something more should be done for the support of the school system. Acts of the general assembly diverted moneys from various sources (enumerated below) to the schools, but negligent—in some instances, fraudulent—management often depleted adequate provision for education. Thus, the Constitution of 1851 established the common school fund⁵⁷⁷ composed of: The Congressional township fund and the lands belonging thereto; the United States surplus revenue; the bank tax fund; the saline fund and the lands belonging thereto; the funds to be derived from the sale of county seminaries; fines and forfeitures; and the proceeds from the sale of all lands that belong to the state in 1851.⁵⁷⁸

The constitution further provided that the principal of the common school fund shall remain a perpetual fund and be invested so that it might increase but never diminish; and that only the interest earned by the fund may be expended.⁵⁷⁹ The general assembly was given the right to invest all funds that were not already under the supervision of the counties; and they were to distribute the interest to the counties.⁵⁸⁰ Interest at the rate of five percent is charged on loans from the common school fund and the Congressional township fund. For the school year of 1937-38, Delaware County received a total of \$16,527.57 from the interest on the common school fund (from the funds managed by the state).⁵⁸¹ These funds are for tuition purposes of the school.

Since 1865 the funds managed by the county have been kept in two separate funds by the county auditor,⁵⁸² the common school fund and the Congressional township fund. Each county is held liable for the preservation of the funds entrusted to it, and for the payment of the annual interest.⁵⁸³

In 1866 the enrollment in the common schools of Delaware

⁵⁷⁶ Logan Esarey, *History of Indiana* (1924), 2:679, sec. 122.

⁵⁷⁷ Const., art. 8, secs. 2-7.

⁵⁷⁸ *Ibid.*, sec. 2. Acts 1865; Burns 28-101; Baldwin 6499.

⁵⁷⁹ Const., art. 8, sec. 3.

⁵⁸⁰ *Ibid.*, sec. 4. Acts 1907; Burns 28-102; Baldwin 6500.

⁵⁸¹ "Report of the State Superintendent of Public Instruction, 1937-1938", *Year Book of the State of Indiana for the Year 1938* (1939), 439.

⁵⁸² Acts 1865; Burns 28-105; Baldwin 6511.

⁵⁸³ Const., art. 8, sec. 6. Acts 1865; Burns 28-104; Baldwin 6499-1.

County was 3,655 pupils.⁵⁸⁴ The length of the term averaged 98 days.⁵⁸⁵ At that time there were no high schools. A county seminary established in 1841 was abolished in 1852.⁵⁸⁶

In 1885 the enrollment in the public schools had increased to 6,200 pupils. The high school had then become an accepted part of the educational system, but the only high school was in Muncie. The length of the term had grown to 150 days. There were then 123 school buildings in the county, though most of them were one-room schools. The valuation of all the school property was then \$231,145.⁵⁸⁷

Statistics for 1938 show that Delaware County now has 15,772 pupils schooled in 27 school units, of which 16 are high schools or grade and high schools combined. The length of the school term has become 164 days, and the total valuation is now \$72,114,565.⁵⁸⁸ These statistics show that, with constantly improving facilities for transportation, it has become possible to combine the numerous district school units into a few consolidated schools.⁵⁸⁹ School buses provided by the school corporation transport the students from their homes to school and home again.⁵⁹⁰

There are three types of school organizations. The schools that are commonly known as county schools are, in reality, township schools and are operated by the township trustee. There are also town and city schools. These are operated in a similar manner by school boards. In cities or towns of not over 58,000 population, the common council appoints a school board of three members.⁵⁹¹

The county superintendent of schools, who is elected by the township trustees, has charge of each township institute, aids the trustee in the supervision of the township schools, and carries out all orders and instructions of the state superintendent of public instruction and the state board of

⁵⁸⁴ *Annual Report of the State Superintendent of Public Instruction, 1885-1886*, p. 68.

⁵⁸⁵ *Ibid.*

⁵⁸⁶ See Historical Sketch under Part A 1 of this book.

⁵⁸⁷ *Annual Report of the Superintendent of Public Instruction, 1885-1886*, pp. 225, 241.

⁵⁸⁸ *Ibid.*, 1937-1938, *loc. cit.*, 404, 405, 422. *Indiana School Directory, 1938-1939*, pp.

84, 90.

⁵⁸⁹ Acts 1877; Burns 28-2601, 28-2602; Baldwin 6153, 6154. Acts 1903; Burns 28-2603; Baldwin 6155. Acts 1921; Burns 28-2604; Baldwin 6101.

⁵⁹⁰ Acts 1917; Burns 28-3801; Baldwin 6271. State *ex rel.* Beard v. Jackson (1906), 168 Ind. 384, 390.

⁵⁹¹ Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962.

education.⁵⁹² He has no supervision of city or town schools.⁵⁹³

The township trustees, the county superintendent of schools, and the chairman of the board of school trustees of each city and town in the county compose the county board of education. The city and town school trustees (other than the chairman of the board) may attend the meetings of the county board of education but have no vote in the proceedings. The county board of education meets semiannually to consider the general needs of the schools.⁵⁹⁴

The local school systems are closely supervised by the state board of education with the state superintendent of public instruction as its administrative head.⁵⁹⁵ One of the most important functions of the state board of education is the issuing of teachers' licenses. These are graded according to the kind and amount of training of the licensee.⁵⁹⁶ The state board of education provides for the inspection of schools,⁵⁹⁷ a uniform schedule of textbooks,⁵⁹⁸ and prescribes an accredited course of instruction for teacher training.⁵⁹⁹

Attendance is compulsory in all the schools in the county for every child between the ages of seven and 16 years. Exceptions are based on physical or mental condition and on court decisions.⁶⁰⁰

The general assembly has provided that whenever colored children reside in any school corporation, the school trustee or trustees may establish separate schools for them, providing they have rights, privileges, and advantages equal to those in the other schools in the corporation. Otherwise they must attend the public schools with white children.⁶⁰¹ Colored

⁵⁹² Acts 1889, 1911, 1913; Burns 28-702, 23-704; Baldwin 5931, 5938. State ex rel. Nebeker v. Sutton (1884), 99 Ind. 300.

⁵⁹³ Acts 1889; Burns 28-705; Baldwin 5940.

⁵⁹⁴ Acts 1873, 1877; Burns 28-801; Baldwin 5983. Interview of July 26, 1939 with Grover Van Duyn, assistant state superintendent of public instruction. See the essay entitled "County Board of Education."

⁵⁹⁵ Acts 1865; Burns 28-301, 28-302; Baldwin 5890, 5891. Acts 1913; Burns 28-401; Baldwin 5906. Acts 1939; Burns, 1939 suppl., 28-401a; Baldwin, 1939 suppl., 5906.

⁵⁹⁶ Acts 1865; Burns 28-404; Baldwin 5920. Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928.

⁵⁹⁷ Acts 1921; Burns 28-304, 28-305; Baldwin 6048, 5939.

⁵⁹⁸ Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675.

⁵⁹⁹ Acts 1923; Burns 28-4205; Baldwin 5916.

⁶⁰⁰ Acts 1921; Burns 28-505; Baldwin 6698.

⁶⁰¹ Acts 1869 (Spec. Sess.), 1877, 1935; Burns, 1939 suppl., 28-5104; Baldwin, 1935 suppl.,

schools are represented on the state board of education by the required presence of one member of the negro race.⁶⁰²

In 1913 the general assembly first provided that school corporations might establish vocational schools or departments for industrial, agricultural, and home economics education. These courses are established in a manner approved by the state board of education, and are maintained by the regular school funds or by a special tax levy.⁶⁰³ Classes may be held during the day or evening. The instruction is of less than college grade, but designed to meet the needs of persons over 14 years of age.⁶⁰⁴

In 1933 the general assembly inaugurated a plan for state aid to the schools. There are three main sources of funds that are returned to the county.

From the general fund, the state supplies the county with tuition support of not less than \$700 annually for each teaching unit of 35 pupils in average daily attendance in grades one to eight, and for each unit of 25 pupils in average daily attendance in grades nine to 12.⁶⁰⁵ The total amount received by Delaware County from this source during the 1937-38 school year was \$290,150.⁶⁰⁶

From the moneys raised from the excise tax on alcoholic beverages, one-third is distributed to the school corporations on the basis of average daily attendance (which took the place of the enumeration).⁶⁰⁷ Delaware County received \$18,650.88 from this source for the school year 1937-38.⁶⁰⁸

A state stamp tax on intangible property has further provided financial aid to the schools. The money is collected and held separate from the general fund. Of the total amount, 10 percent is kept by the state for the expense of administering that tax, and the remaining amount is apportioned to the counties in the proportion that the assessed valuation of real

⁶⁰² Acts 1939; Burns, 1939 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

⁶⁰³ Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

⁶⁰⁴ Acts 1913, 1919; Burns 28-4903; Baldwin 6449.

⁶⁰⁵ Acts 1933, 1935, 1937; Burns, 1939 suppl., 28-1001 to 28-1003; Baldwin, 1937 suppl., 6502 to 6504.

⁶⁰⁶ "Report of the State Superintendent of Public Instruction, 1937-1938", *loc. cit.*, 407, 410, 424.

⁶⁰⁷ Acts 1935, 1939; Burns, 1939 suppl., 12-811; Baldwin, 1939 suppl., 3764-40f. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

⁶⁰⁸ "Report of the State Superintendent of Public Instruction, 1937-1938", *loc. cit.*, 407, 410, 424.

property in each county bears to the aggregate assessed valuation of real property in the state. The county then retains for its general fund one-fourth of the amount received and distributes the remainder to the school taxing units. Apportionment among such units is based on assessed valuation of real property of the county.⁶⁰⁹ For the school year 1937-38 the school taxing units of Delaware County received \$16,726.43 from this source.⁶¹⁰

In 1933 the common school relief fund was established for the purpose of aiding schools to continue in operation. The fund is derived from a seven-cent tax levy on each \$100 of taxable property, real or personal, and a poll tax of 50 cents on each taxable poll.⁶¹¹ Whenever any township trustee or board of trustees of any school town or school city ascertains that there is an insufficient amount of revenue to maintain the school for a term not to exceed eight months, he or they must file a certificate with the county superintendent of schools stating its needs.⁶¹² The county superintendent of schools forwards the certificate to the state board of education,⁶¹³ and this board and the state board of accounts must examine the certificate and decide on the amount to be allotted to the school unit.⁶¹⁴ The money received must first be used to pay any unpaid items of operating expenses which accrued before the making of such application; and any surplus must be used for the operating expenses of the current year.⁶¹⁵ Delaware County received \$65,792.40 from this fund in the school year of 1937-38.⁶¹⁶

The school cities, towns, and townships may levy property taxes and poll taxes⁶¹⁷ for the following school purposes: Renting, repairing, and constructing schoolhouses; furnishings, apparatus, fuel, tuition, and other current expenses;⁶¹⁸

⁶⁰⁹ Acts 1933; Burns 64-922; Baldwin 15920.

⁶¹⁰ "Report of the State Superintendent of Public Instruction, 1937-1938", *loc. cit.*, 407, 410, 424.

⁶¹¹ Acts 1933; Burns 28-901; Baldwin 6431.

⁶¹² Acts 1933; Burns 28-903; Baldwin 6433.

⁶¹³ Acts 1933; Burns 28-904; Baldwin 6434.

⁶¹⁴ Acts 1933; Burns 28-905; Baldwin 6435.

⁶¹⁵ Acts 1933, 1935; Burns, 1939 suppl., 28-907; Baldwin, 1935 suppl., 6437.

⁶¹⁶ "Report of the State Superintendent of Public Instruction, 1937-1938", *loc. cit.*, 407, 424.

⁶¹⁷ Acts 1919; Burns 64-101; Baldwin 15514.

⁶¹⁸ Acts 1865, 1873, 1905, 1917; Burns 28-1101; Baldwin 6442.

to enforce compulsory education and keep poor children in school;⁶¹⁹ to provide rooms and equipment for the teaching of agriculture, home economics, physical culture, and practical mental culture;⁶²⁰ establishment of vocational schools;⁶²¹ and for the retirement of school bonds.⁶²²

PUBLIC HEALTH

The Indiana State Board of Health closely supervises and directs all local public health activities.⁶²³ Public health is administered in the county by a part-time health officer, who is responsible to the board of commissioners and the state board of health. The county health officer is appointed by the board of commissioners, subject to approval by the state board.⁶²⁴ The state board of health is composed of several bureaus which perform many services for the local health officers. Some of these bureaus furnish laboratory services such as inspection of dairy products, analysis of water, food, and drugs, and making of bacteriological and pathological tests.⁶²⁵

The educational facilities offered by the state board are many. Literature, lectures, lantern slides, and motion picture films are available for use in schools and clubs or organizations desiring health information on public health. These facilities may be obtained from the bureaus of health and physical education, communicable diseases, and for control of venereal diseases.⁶²⁶

The state board of health distributes insulin, pneumonia serum, diphtheria toxoid, smallpox virus, and typhoid vaccine to physicians for indigent patients.⁶²⁷

Health laws require that public water supplies must be

⁶¹⁹ Acts 1921; Burns 28-513; Baldwin 6706.

⁶²⁰ Acts 1913; Burns 28-3421; Baldwin 6468.

⁶²¹ Acts 1913, 1919; Burns 28-4902; Baldwin 6446.

⁶²² Acts 1937; Burns, 1939 suppl., 28-3218; Baldwin, 1937 suppl., 6623-11.

⁶²³ Acts 1891, 1909; Burns 35-105, 35-106; Baldwin 8390, 8391.

⁶²⁴ Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

⁶²⁵ Acts 1905; Burns 35-305; Baldwin 8394.

⁶²⁶ Acts 1891, 1909; Burns 35-106; Baldwin 8391. Interview of August 17, 1939 with Dr.

Verne K. Harvey, director of the state board of health.

⁶²⁷ Acts 1907, 1919, 1929, 1935, 1939; Burns, 1939 suppl., 35-701 to 35-703, 35-710, 35-712;

Baldwin, 1935 suppl., 13392 to 13394, 13395-1; Baldwin, 1939 suppl., 13395-2.

inspected by the state board of health;⁶²⁸ that manufacturing, storage, and retail establishments dealing in foodstuffs must maintain certain standards of sanitation and cleanliness;⁶²⁹ that dwellings which are unsanitary, unsafe, unhealthful, or rendered uninhabitable by a nearby nuisance must be properly inspected and ordered vacated;⁶³⁰ and that health officers must ascertain the existence of rat infestations, order their extermination, and recommend methods of extermination.⁶³¹

Food and drug products are inspected in the state laboratory for adulteration or misbranding.⁶³² Dairy products are tested for butter fat content and weight.⁶³³

Contagious diseases must be reported to the state board and properly quarantined by the health officer.⁶³⁴ All cases of tuberculosis⁶³⁵ and leprosy must be reported to the state board of health as soon as they are diagnosed. The state board has jurisdiction to direct the care and disposition of lepers.⁶³⁶

All birth certificates must show that the attendant at such birth took the proper precautions to prevent ophthalmia neonatorum (the disease causing infant blindness).⁶³⁷ If an infant's eyes show any sign of infection within two weeks after the date of birth, a written report thereof must be made to the health officer within six hours after such discovery.⁶³⁸

A recent statute provides that all persons applying to the clerk of the circuit court for a marriage license must present a certificate from a licensed physician stating that the applicant is free from syphilis in an infectious state. Before giving such certificate, the physician must have a blood specimen of the applicant examined by the laboratory of the state board of health or a laboratory approved by the

⁶²⁸ Acts 1909; Burns 35-202, 35-203; Baldwin 8411, 8412.

⁶²⁹ Acts 1909; Burns 35-1001; Baldwin 8504.

⁶³⁰ Acts 1917; Burns 35-1801; Baldwin 8563.

⁶³¹ Acts 1913; Burns 35-1601, 35-1602; Baldwin 8570, 8571.

⁶³² Acts 1905; Burns 35-302; Baldwin 8394. Acts 1907; Burns 35-1201; Baldwin 8432. Acts 1939, ch. 38.

⁶³³ Acts 1913; Burns 35-1301; Baldwin 8455.

⁶³⁴ Acts 1903; Burns 35-401, 35-403; Baldwin 8531, 8533.

⁶³⁵ Acts 1917; Burns 35-601, 35-602; Baldwin 8402, 8552.

⁶³⁶ Acts 1917; Burns 35-501 to 35-503; Baldwin 8543 to 8545.

⁶³⁷ Acts 1911; Burns 35-901; Baldwin 8558.

⁶³⁸ Acts 1911; Burns 35-903; Baldwin 8560.

board. The test must be made not more than 30 days before the application for a license. This law does not go into effect until March 1, 1940.⁶³⁹

The local (county or city) part-time health officers are physicians legally qualified to practice medicine and suitably trained in sanitary science.⁶⁴⁰ It is possible, under the present Indiana law, to make the local officer a full-time official.⁶⁴¹ If a county is financially unable to maintain a full-time health officer alone, several counties may join in the support of a full-time district health officer. The expenses of such an office would be in proportion to the population of each county at the time of the last federal census.⁶⁴² A full-time public health nurse may be employed to aid either part-time or full-time county or city health officers. The county tuberculosis association furnishes nurse service in Delaware County.⁶⁴³

The local health officers enforce the state health laws and the rules and regulations of the state board of health. They promote health education, collect vital statistics, make periodic reports to the state board of health, and keep records of these reports in their record books.⁶⁴⁴

With the aid of federal funds derived from the state's acceptance of the "Social Security Act" enacted by the Congress of the United States and approved on August 14, 1935, the state board of health has been able to establish several district health departments.⁶⁴⁵ These district departments are under the supervision of the bureau of local health administration of the state board of health and they in turn give aid to the local part-time health officials.⁶⁴⁶

HOSPITALS

Before the turn of the century, the maintenance of hospitals had been left largely to cities and private associations;

⁶³⁹ Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁶⁴⁰ Acts 1935; Burns, 1939 suppl., 35-118, 35-121; Baldwin, 1935 suppl., 8404-1, 8404-4.

⁶⁴¹ Acts 1935; Burns, 1939 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

⁶⁴² Acts 1935; Burns, 1939 suppl., 35-125; Baldwin, 1935 suppl., 8404-8.

⁶⁴³ Acts 1935; Burns, 1939 suppl., 35-123, 35-125; Baldwin, 1935 suppl., 8404-6, 8404-8. Interview of September 11, 1939 with Dr. Verne D. Harvey, director of the state board of health.

⁶⁴⁴ Acts 1935; Burns, 1939 suppl., 35-118, 35-122, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-6.

⁶⁴⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1501, 52-1602, 52-1604; Baldwin, 1937 suppl., 8409-1, 8409-2, 8409-4.

⁶⁴⁶ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1611; Baldwin, 1937 suppl., 8409-11.

but laws now provide for the establishment and maintenance of hospitals by the board of commissioners, whenever they find need for them,⁶⁴⁷ on the petition of resident freeholders,⁶⁴⁸ or in co-operation with private associations.⁶⁴⁹ Training schools for nurses,⁶⁵⁰ detention departments for insane patients,⁶⁵¹ tuberculosis departments,⁶⁵² and veterinary laboratories⁶⁵³ are maintainable in connection with these hospitals. The law provides that a county hospital is for the benefit of the following persons: All inhabitants of the county; "any person falling sick or being injured" within its limits; and of any nonresidents to whom the hospital board may extend its benefits. All persons who are financially able must pay for medical attention furnished to them.⁶⁵⁴ Township trustees pay for care given to indigent patients from their respective townships.⁶⁵⁵

VITAL STATISTICS

In Indiana the collection of vital statistics is supervised by the bureau of vital statistics of the state board of health.⁶⁵⁶ The county health officer makes the collection of local data on forms supplied by the state board of health, and periodically delivers reports of all records to the state board. The health officer collects statistics of births, deaths, marriages, and communicable diseases. Physicians, midwives, the clerk of the circuit court, and all responsible householders are required to report to the county health officer the facts needed for such statistics.⁶⁵⁷

All birth reports are to be made to the health officer within 36 hours after birth. A child that lives and breathes after birth, no matter how brief the period, and regardless of the period of gestation, is a living child; and if he thereafter

⁶⁴⁷ Acts 1903, 1939; Burns, 1939 suppl., 22-3201; Baldwin, 1939 suppl., 4507.

⁶⁴⁸ Acts 1917, 1919, 1921, 1925, 1927, 1929; Burns 22-3215, 22-3216; Baldwin 4517, 4537.

⁶⁴⁹ Acts 1903, 1905; Burns 22-3202; Baldwin 4508.

⁶⁵⁰ Acts 1917, 1923; Burns 22-3233; Baldwin 4531.

⁶⁵¹ Acts 1917; Burns 22-3234; Baldwin 4532.

⁶⁵² Acts 1917; Burns 22-3235; Baldwin 4533.

⁶⁵³ Acts 1917; Burns 22-3236; Baldwin 4534.

⁶⁵⁴ Acts 1917; Burns 22-3229; Baldwin 4527.

⁶⁵⁵ Acts 1903, 1917; Burns 22-3206, 22-3237; Baldwin 4512, 4535.

⁶⁵⁶ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

⁶⁵⁷ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115;

dies, his birth and death must be reported and recorded.⁶⁵⁸

Deaths are reported as soon as possible, because a body must not be buried until a burial permit has been made by the health officer in charge, and burial permits are not issued until the death certificate is completed. Burial may be made anywhere in the state regardless of the county in which the permit was issued. When a death occurs outside the state, and the body is brought into the state for interment, the burial permit must be based on the transportation permit, and no record of said death is required. If death has occurred by means of violence or criminal practices, the death notice is referred to the coroner.⁶⁵⁹ The burial permit is preserved with the records of the cemetery.⁶⁶⁰

The clerk of the circuit court issues all marriage licenses, and makes a monthly report of all marriages to the county health officer. The health officer records each marriage in his record book, and sends a quarterly report to the state board of health. All marriages must be reported by the person performing them, within three days after the occurrence thereof, on official blanks, to the clerk of the circuit court of the county where the license was issued.⁶⁶¹

Weekly reports on forms provided by the United States Public Health Service, summarizing all communicable diseases are made by the local health officers to the state board of health. The report, stating such to be the case, is made even if there are no diseases to report.⁶⁶²

The heads of all public and private institutions, such as hospitals, poor asylums, and places of confinement are required to keep all statistics concerning the inmates and make reports directly to the state board of health as required by the board.⁶⁶³

WELFARE ASSISTANCE

An important public service is the administration of the Public Welfare Act. Welfare assistance is supervised by the county welfare board.

⁶⁵⁸ Acts 1907, 1911, 1913; Burns 35-115, 35-901; Baldwin 8398, 8558. Rule 4 of the state board of health.

⁶⁵⁹ Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 3 of the state board of health.

⁶⁶⁰ Acts 1939; Burns, 1939 suppl., 20-1021; Baldwin, 1939 suppl., 4617-21.

⁶⁶¹ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 5 of the state board of health.

⁶⁶² Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 6 of the state board of health.

⁶⁶³ Acts 1907, 1913; Burns 35-117; Baldwin 8400.

An applicant for old-age assistance must be 65 years old; must be a citizen of the United States; must have lived in the state for five years out of the last nine, the last year continuously; must not be an inmate of a municipal, state, or national institution; and must not have transferred his property within the five years immediately before his application.⁶⁶⁴ He must reveal all property and income in which he has an interest,⁶⁶⁵ agree to reimburse the county for assistance given him, and assign as collateral security such part of his personal property as the county department of public welfare may require.⁶⁶⁶ If upon investigation his needs are found to warrant it, the county department grants him assistance, never exceeding \$30 a month.⁶⁶⁷ A copy of the certificate of award is filed in the office of the recorder, and constitutes a lien on any real property the pensioner then owns or subsequently acquires.⁶⁶⁸ With the consent of the state department of public welfare, the county department may demand a transfer of all property he owns, on the sole condition that if assistance is suspended or if he dies the property will revert to him or his estate, subject to a lien for sums the state has paid to him.⁶⁶⁹

A blind applicant, in order to receive state assistance, must be 21 years old if a male or 18 years old if a female; must be a citizen of the United States; must have lost his eyesight while a resident of the state or have lived in the state five of the last nine years, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; must not have transferred his property within the five years immediately before his application; and must not solicit alms while receiving assistance.⁶⁷⁰ The amount he receives is determined by the county department after an investigation of his needs⁶⁷¹ and never exceeds \$30

⁶⁶⁴ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1201; Baldwin, 1937 suppl., 14078-32.

⁶⁶⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1204; Baldwin, 1937 suppl., 14078-35.

⁶⁶⁶ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1213; Baldwin, 1937 suppl., 14078-44.

⁶⁶⁷ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1203; Baldwin, 1937 suppl., 14078-34.

⁶⁶⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

⁶⁶⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1214; Baldwin, 1937 suppl., 14078-45.

⁶⁷⁰ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1221; Baldwin, 1937 suppl., 14078-52.

⁶⁷¹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1225; Baldwin, 1937 suppl., 14078-56, 14078-58.

a month⁶⁷² except as temporary assistance is given for treatment of his eyes.⁶⁷³ Blind children may be sent to the state school for the blind, near Indianapolis.⁶⁷⁴

A dependent or destitute child must have lived in the state one year preceding his application for assistance or have been born within the state during the year, his mother having resided within the state one year before his birth.⁶⁷⁵ A destitute child⁶⁷⁶ may receive as much as \$23 a month,⁶⁷⁷ and is eligible for any other relief he may require.⁶⁷⁸ The first dependent child may receive \$20, the second child \$18, and each additional child \$12 a month.⁶⁷⁹ Crippled children may be placed in any public or private hospital or be sent to the Riley Hospital at Indianapolis.⁶⁸⁰ Diseased and defective children may be placed in any public hospital in the county by the judge of the circuit court.⁶⁸¹ Orphan, dependent, and neglected children under 16 years of age are placed in the Delaware County Children's Home or in private homes under supervision of the board of commissioners.⁶⁸²

No official, in carrying out the provisions of the Welfare Act, may take charge of a child over the objection of a parent or a person standing in loco parentis to such child, except pursuant to a court order.⁶⁸³ Persons receiving aid under the Welfare Act are ineligible for other public relief.⁶⁸⁴ Assistance is not transferable, is not subject to legal process, and is not an asset in bankruptcy proceedings.⁶⁸⁵ When a

⁶⁷² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1223; Baldwin, 1937 suppl., 14078-54.

⁶⁷³ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1236; Baldwin, 1937 suppl., 14078-67.

⁶⁷⁴ Acts 1865; Burns 22-601; *et seq.*; Baldwin 4560 *et seq.*

⁶⁷⁵ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1240, 52-1268; Baldwin, 1937 suppl., 14078-71, 14078-97b.

⁶⁷⁶ Acts 1937; Burns, 1939 suppl., 52-1267; Baldwin, 1937 suppl., 14078-97a.

⁶⁷⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1269; Baldwin, 1937 suppl., 14078-97c.

⁶⁷⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1278; Baldwin, 1937 suppl.,

14078-97i.

⁶⁷⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1241; Baldwin, 1937 suppl., 14078-72.

⁶⁸⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1256; Baldwin, 1937 suppl., 14078-87.

⁶⁸¹ Acts 1933; Burns 52-501; Baldwin 5700.

⁶⁸² Acts 1897; Burns 22-2601, 22-2605; Baldwin 4382, 4385.

⁶⁸³ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1417; Baldwin, 1937 suppl., 14078-130.

⁶⁸⁴ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1202, 52-1222; Baldwin, 1937 suppl.,

14078-33, 14078-53.

⁶⁸⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1210, 52-1231; Baldwin, 1937 suppl.,

14078-41, 14078-62.

blind person moves to another county in the state, there is no suspension of any assistance he is receiving;⁶⁸⁶ and children and the aged may receive aid for another year from the county from which they moved.⁶⁸⁷

If a person is unable to care for himself, the county department designates and pays this relief money to some responsible person for his benefit.⁶⁸⁸ If a recipient of relief dies leaving an estate insufficient to bury him, and the persons legally responsible for his burial are unable to pay the expenses, the county department pays \$75 for his funeral, plus an additional \$25 for a burial lot (if deceased did not own one).⁶⁸⁹

An appeal may be taken from the county department to the state department.⁶⁹⁰ Nothing in the Welfare Act relieves any person from liability for the support of parent, child, or spouse.⁶⁹¹

Poor relief is administered by the township trustees. The county maintains an asylum for the poor.⁶⁹² Residents of the county,⁶⁹³ paupers,⁶⁹⁴ and nonresidents requiring temporary relief⁶⁹⁵ may be placed therein. The law prohibits the keeping of children between the ages of three and 17 in the asylum for a longer period than 60 days.⁶⁹⁶ They must be placed in the Delaware County Children's Home.⁶⁹⁷ Anyone refused relief by a township trustee has a right to a hearing before the board of commissioners⁶⁹⁸ and to an appeal from that board to

⁶⁸⁶ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1239; Baldwin, 1937 suppl., 14078-70.

⁶⁸⁷ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1218, 52-1248; Baldwin, 1937 suppl., 14078-49, 14078-79.

⁶⁸⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1208, 52-1229; Baldwin, 1937 suppl., 14078-39, 14078-60.

⁶⁸⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1209, 52-1230; Baldwin, 1937 suppl., 14078-40, 14078-61.

⁶⁹⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1211, 52-1232, 52-1246; Baldwin, 1937 suppl., 14078-42, 14078-63, 14078-77.

⁶⁹¹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

⁶⁹² Const., art. 9, sec. 3. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1939 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

⁶⁹³ 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1939 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

⁶⁹⁴ Acts 1935; Burns, 1939 suppl., 52-151; Baldwin, 1935 suppl., 13320-8.

⁶⁹⁵ Acts 1935; Burns, 1939 suppl., 52-163; Baldwin, 1935 suppl., 13320-20.

⁶⁹⁶ Acts 1897, 1901; Burns 22-2608; Baldwin 4388.

⁶⁹⁷ Acts 1897; Burns 22-2605; Baldwin 4385.

⁶⁹⁸ Acts 1935; Burns, 1939 suppl., 52-160; Baldwin, 1935 suppl., 13320-17.

the circuit court.⁶⁹⁹ The board of commissioners may borrow for poor relief, if the funds available are not sufficient.⁷⁰⁰

PUBLIC WORKS AND PROPERTY

The board of commissioners has power: To make orders respecting the property of the county in conformity to law; to sell the public grounds of the county on which public buildings are situated, and to purchase in lieu thereof, in the name of the county, other grounds in the county seat on which such buildings shall be erected; to purchase other lands for the enlargement of the public square, and to take care of and preserve such property; to grant licenses, permits, or franchises with respect to the use of the property of the county.⁷⁰¹ No sale, conveyance, or purchase, by the board, of real estate of the value of \$1,000 or more can take place except pursuant to ordinance of the county council authorizing such sale or purchase and fixing the terms and conditions thereof.⁷⁰² The board cannot sell county property, real or personal, except at public auction after 60 days' notice by publication and posting.⁷⁰³

ROADS AND BRIDGES

The board of commissioners has power to construct and maintain roads⁷⁰⁴ and bridges.⁷⁰⁵ Generally, the preliminary procedure for such construction is as follows: Taxpayers file with the board of commissioners a petition requesting the improvement; notice of hearing before the board is published; taxpayers opposing the petition file remonstrances; viewers appointed by the board make inspection and recommendations;

⁶⁹⁹ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5276.

⁷⁰⁰ Acts 1935; Burns, 1939 suppl., 52-604; Baldwin, 1935 suppl., 13359-1.

⁷⁰¹ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

⁷⁰² Acts 1899; Burns 26-534; Baldwin 5399.

⁷⁰³ Acts 1907; Burns 26-2008; Baldwin 5107.

⁷⁰⁴ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1923; Burns 36-1001; Baldwin 9290. Acts 1905; Burns 36-1204; Baldwin 8807. Acts 1905; Burns 36-1301 *et seq.*; Baldwin 8787 *et seq.* Acts 1921; Burns 36-1401 *et seq.*; Baldwin 8904 *et seq.*

⁷⁰⁵ Acts 1905, 1907, 1929; Burns 36-1901; Baldwin 9236. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903, 1923; Burns 36-2002; Baldwin 9192. Acts 1920; Burns 36-2401 *et seq.*; Baldwin 9151 *et seq.*

damages to landowners are determined; the petition is finally approved; a contract for the work is let; and the damages are paid. In some instances, bonds may be issued for the construction of roads⁷⁰⁶ and bridges,⁷⁰⁷ and special assessment liens charged against the land benefited by the road.⁷⁰⁸ The county may render financial assistance to the state highway commission in the construction of any state highway located wholly within the county, and any bridge (on such highway) over a stream forming the county boundary.⁷⁰⁹

The county surveyor ordinarily prepares the plans and specifications for, and has general supervision of, the construction of roads and bridges. If he is not a competent civil engineer, the board may appoint one to perform such duties.⁷¹⁰

The county surveyor, or a highway supervisor (other than the surveyor) appointed by the board, has general supervision of the maintenance and repair of all roads, bridges, and culverts which are maintained from the highway fund of the county.⁷¹¹ He makes maps of all county roads, and gives each road a name or number, so that the roads may be efficiently patrolled for making repairs.⁷¹² Weeds must be cut and removed each year between June 15 and September 1.⁷¹³

All expenses incurred in the maintenance, repair, and preservation of county roads must be paid out of funds received by the county from the motor vehicle highway account of the state; and no tax can be levied for such purpose except by the unanimous vote of the county council in case of extraordinary emergency or indispensable necessity.⁷¹⁴

⁷⁰⁶ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1435 to 36-1443; Baldwin 8938 to 8946. Acts 1937; Burns, 1939 suppl., 36-332; Baldwin, 1937 suppl., 8859-1.

⁷⁰⁷ Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152. Acts 1927; Burns 36-2421; Baldwin 9171. Acts 1929, 1937; Burns, 1939 suppl., 36-2432; Baldwin, 1937 suppl., 9182. Acts 1927; Burns 36-2441; Baldwin 9128.

⁷⁰⁸ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

⁷⁰⁹ Acts 1923, 1929; Burns 36-136 to 36-141; Baldwin 8672 to 8675, 8678, 8679.

⁷¹⁰ 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁷¹¹ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

⁷¹² Acts 1933; Burns 36-1109; Baldwin 8707.

⁷¹³ Acts 1939; Burns, 1939 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

⁷¹⁴ Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1939 suppl., 36-2804; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1939 suppl., 36-2806; Baldwin, 1937 suppl., 8695-6.

PUBLIC BUILDINGS

The law provides that the board of commissioners must cause a courthouse, jail, and public offices for the clerk, recorder, treasurer, and auditor to be erected and furnished, where the same has not been done; and must keep all the public buildings of the county in repair; and that such offices must be fireproof, if practicable.⁷¹⁵

For the purpose of acquiring a new courthouse, the board, without appraisement and without authority from the county council, may sell to the state any lands of the county containing public buildings, and buy other land for courthouse grounds. The proceeds of sale can be used only for such purpose. Additional funds for such purpose may be raised by issuing bonds or notes.⁷¹⁶

If the courthouse or jail is wholly or partly destroyed by fire or windstorm, it may be reconstructed or repaired by the board, and bonds issued therefor, and a tax levied to pay for the bonds.⁷¹⁷

County buildings, not needed by the courts or for county business, may be leased to the city or town in which such buildings are located for a term not exceeding 10 years in any one lease,⁷¹⁸ or to private persons or corporations for a term not exceeding five years.⁷¹⁹

The board may construct and maintain public halls, and provide a custodian, janitor, lights, and heat therefor; and may join with a city for such purpose, or sell such halls to a city or town.⁷²⁰ The board may erect soldiers' monuments,⁷²¹ memorial buildings, auditoriums, and coliseums.⁷²²

Contracts for construction of public buildings may be let by the board of commissioners in pursuance of appropriation by the county council,⁷²³ after plans and specifications adopted by the board have remained in the auditor's office 30 days open to public inspection, notice inviting bids has

⁷¹⁵ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240.

⁷¹⁶ Acts 1917, 1920 (Spec. Sess.); Burns 26-2201 to 26-2210; Baldwin 5165 to 5174.

⁷¹⁷ Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

⁷¹⁸ Acts 1909; Burns 26-1801 to 26-1804; Baldwin 5151 to 5154.

⁷¹⁹ Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

⁷²⁰ Acts 1903, 1913; Burns 26-1901 to 26-1906; Baldwin 5146 to 5164.

⁷²¹ Acts 1865, 1891; Burns 26-1701; Baldwin 5298.

⁷²² Acts 1913; Burns 26-1707; Baldwin 5132.

⁷²³ Acts 1899; Burns 26-525; Baldwin 5389.

been published, and bids, affidavits, and bonds have been received from bidders.⁷²⁴

DRAINAGE

Drainage districts and special assessment liens on the land in the benefited area, to pay the drainage, may be established by the circuit court or superior court on petition of landowners, after reference to the surveyor.⁷²⁵ The petition will be dismissed if owners of two-thirds of the land affected remonstrate within 20 days.⁷²⁶ If the original assessment is insufficient to complete the work, an additional assessment may be ordered after report of the surveyor, notice to the landowners, and hearing by the court.⁷²⁷ After assessments are adjusted and confirmed, they are placed on the ditch duplicate and collected in the same manner in which taxes are collected.⁷²⁸

The county surveyor has general supervision of the construction and maintenance of all ditches, drains, and levees. He makes all necessary surveys, maps, plans, and specifications when courts grant petitions for construction.⁷²⁹ The law requires that open ditches be cleaned out and repaired biennially, and that weeds, willows, and debris be removed therefrom annually, and that public tile drains be repaired whenever necessary.⁷³⁰

The board of commissioners may, by purchase of eminent domain, acquire lands and rights necessary to obtain a right-of-way for drainage or easement for sewers, when necessary for the proper maintenance of any county building or institution.⁷³¹

OTHER PUBLIC PROPERTY

The board of commissioners may, without petition, purchase or otherwise acquire lands within the county for park

⁷²⁴ Acts 1899; Burns 26-537; Baldwin 5402. Acts 1907; Burns 26-2001 to 26-2005; Baldwin 5100 to 5104.

⁷²⁵ Acts 1933; Burns 27-104, 27-109, 27-116, 27-134; Baldwin 5740, 5745, 5752, 5770.

⁷²⁶ Acts 1933; Burns 27-108; Baldwin 5744.

⁷²⁷ Acts 1933; Burns 27-122; Baldwin 5758.

⁷²⁸ Acts 1933; Burns 27-134; Baldwin 5770.

⁷²⁹ Acts 1933; Burns 27-101, 27-201; Baldwin 5737, 5775. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁷³⁰ Acts 1933, 1935; Burns, 1939 suppl., 27-203, 27-210; Baldwin, 1935 suppl., 5777, 5784. Acts 1939; Burns, 1939 suppl., 27-233; Baldwin, 1939 suppl., 5794-9.

⁷³¹ Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

purposes and make the necessary improvements thereon.⁷³² If 200 persons, who are taxpayers and voters, petition the board to acquire land for park purposes, the board gives 60 days' notice by publication and conducts a public hearing on the question. If 20 percent of the resident taxpayers file remonstrances on or before the day fixed for hearing, the petition will be dismissed.⁷³³ The board may acquire land to convey to the state for park purposes, on petition of 200 persons who are taxpayers and voters, after publication of 30 days' notice, public hearing, consent of the governor and the director of the state department of conservation, fixing a tax levy, and issuing bonds (if needed). The petition will be dismissed if 25 percent of the resident taxpayers file remonstrances before the date fixed for hearing.⁷³⁴

The board of commissioners may acquire, by purchase or gift, any lands within the county for the purpose of a permanent public forest.⁷³⁵ Purchase for such purpose may be made on petition signed by 50 or more freeholders of the county, after publication of notice, a public hearing, and fixing a tax levy to pay for the same. Money may be raised by bond issue or temporary loan.⁷³⁶ A gift of lands to the county on condition that they be maintained as a public forest can be accepted only by a majority of the board of commissioners and county council in joint session.⁷³⁷ Any taxpayer may appeal to the circuit court.⁷³⁸

Saline and meander lands bordering on lakes and streams, owned by the state, may be purchased by the county to be used for a public park or public forest, or both, on order of the board of commissioners, by filing petition with the circuit or superior court, appraisal of lands, and payment of value.⁷³⁹

The board may permit county lands within one and one-half miles of a city or town to be used by such city or town for park purposes. Title to the land remains in the county.⁷⁴⁰

The board, on petition of a majority of the voters in

⁷³² Acts 1923, 1927; Burns 26-1501; Baldwin 5199.

⁷³³ Acts 1923; Burns 26-1503, 26-1504; Baldwin 5201, 5202.

⁷³⁴ Acts 1927; Burns 26-1512 to 26-1516; Baldwin 5190 to 5194.

⁷³⁵ Acts 1929; Burns 32-101; Baldwin 4875.

⁷³⁶ Acts 1929, 1935; Burns, 1939 suppl., 32-102; Baldwin, 1935 suppl., 4876.

⁷³⁷ Acts 1929; Burns 32-105; Baldwin 4879.

⁷³⁸ Acts 1929, 1935; Burns, 1939 suppl., 32-109; Baldwin, 1935 suppl., 488-1.

⁷³⁹ Acts 1929; Burns 62-217 to 62-225; Baldwin 15260 to 15268.

⁷⁴⁰ Acts 1911; Burns 26-1526 to 26-1531; Baldwin 5181 to 5186.

the county, may purchase land to be used for fairgrounds,⁷⁴¹ and thereafter sell such land or any part thereof, if it is no longer an eligible location for fairs.⁷⁴²

The county may, separately or in conjunction with another county or city, acquire, maintain, and dispose of airports and appurtenances necessary and useful in connection therewith.⁷⁴³

Lands conveyed to the board of commissioners for the purpose of a public or private cemetery must be held by the board forever in trust for such purpose,⁷⁴⁴ subject to the exceptions hereinafter stated. The board, in which title is vested, may convey any public cemetery to any city or town within the vicinity thereof on application of such city or town,⁷⁴⁵ and may convey any cemetery, public or private, to a cemetery association on petition of a majority of the persons, being residents of the county and heads of families, whose dead are buried in the cemetery.⁷⁴⁶

MISCELLANEOUS FUNCTIONS .

The board of commissioners makes suitable rules and regulations covering traffic on highways in the county, and takes steps necessary to enforce the rules. If the highway is on a county line, the boards of commissioners of the respective counties, in joint session, make and enforce the rules.⁷⁴⁷ The county surveyor and county highway supervisor have police power in the control of the highways of the county and may fix the limits of the loads for any highway, bridge, or culvert.⁷⁴⁸

The state-wide interest in agriculture was so strong in 1851 that the constitution of that year provided that improvement of agriculture should be encouraged.⁷⁴⁹ Later the office of county agricultural agent was established for the purpose of furthering local education in agriculture, and for co-oper-

⁷⁴¹ Acts 1873; Burns 26-1517, 26-1518; Baldwin 5330, 5331.

⁷⁴² Acts 1873; Burns 26-1519; Baldwin 5332.

⁷⁴³ Acts 1920 (Spec. Sess.), 1921; Burns 14-301 to 14-306; Baldwin 4021, 4023 to 4026.

⁷⁴⁴ 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600.

⁷⁴⁵ Acts 1905; Burns 48-6003; Baldwin 12665.

⁷⁴⁶ Acts 1881 (Spec. Sess.); Burns 21-210, 21-211; Baldwin 4626, 4627.

⁷⁴⁷ Acts 1919; Burns 36-706; Baldwin 8899.

⁷⁴⁸ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

⁷⁴⁹ Const., art. 8, sec. 1.

ating with and advising farmers and teachers.⁷⁵⁰ Allowances may be made out of the county's general fund to agricultural societies for the promotion of agricultural and horticultural interests.⁷⁵¹

RECORDS SYSTEM

The records of Delaware County began with its creation in 1827. The establishment of each of the county offices and bureaus inaugurated their records, which were kept in such fashion as the incumbents saw fit, following in the main the directions of the general assembly under the provisions for each respective office.

In 1909 the general assembly established the state board of accounts which formulates, prescribes, and installs systems of accounting and reporting which are uniform for every public office of the same class.⁷⁵² Under this law some of the records were combined to eliminate separation, duplication, and overlapping. The board also permits the use of bound loose-leaf records in almost all cases where the records are typed. The quality of the paper and ink and the binding and rebinding practices are left to the judgment of the board of commissioners, except that a good quality is required.

An act of 1937 provides that the board of commissioners may provide for the installation of a modern tax accounting system in the office of the treasurer and auditor, after a description thereof has been approved by the board of commissioners and certified to, and approved by, the state board of accounts.⁷⁵³ No system has been established in Delaware County under authority of this law.⁷⁵⁴

Whenever it may be necessary for the preservation of the records of any office, it is the duty of the board of commissioners to issue an order directing the officer in charge to transcribe the records.⁷⁵⁵

In event of the loss or destruction, in whole or in part, of any of the county records, they must be replaced as follows: (1) The board of commissioners must send to the governor a certified list of such records furnished by the state, and he

⁷⁵⁰ Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

⁷⁵¹ Acts 1877; Burns 15-314; Baldwin 5333.

⁷⁵² Acts 1909; Burns 60-202, 60-224; Baldwin 13855, 13875.

⁷⁵³ Acts 1937; Burns, 1939 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15863-1 to 15868-3.

⁷⁵⁴ Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁷⁵⁵ Acts 1877; Burns 26-634; Baldwin 5339.

must order the proper state officer to replace them. (2) Records compiled in the county must be restored, if possible, from original documents by the county officer who had custody of the original records. (3) If impossible to reduplicate the old records, new records must be made on evidence taken from parties having knowledge of the facts concerned, by the proper officer or by a commissioner appointed by the board of commissioners for that purpose.⁷⁵⁶

In 1925 a law was passed permitting county officials, at their discretion, to turn over to the archives division of the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books and material not in current use in their office.⁷⁵⁷ County officials have only occasionally availed themselves of this provision for permanent preservation of their old records.

An act of 1927 provided that deeds, mortgages, and other instruments may be recorded by photographic process adopted by the board of commissioners.⁷⁵⁸ The photostatic method of recording has never been used generally by any Delaware County officer.

In 1937 the general assembly authorized the director of the state library, at his discretion, to make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office, for preservation in the state archives. All public officials must permit such copies to be made.⁷⁵⁹

In 1939 the general assembly created in each county a commission of public records, consisting of the judge of the circuit court, the president of the board of commissioners, the county auditor, and the clerk of the circuit court. The commission must determine: (a) Which public records, if any, are no longer of official or historical value; (b) which public records are of current official value and should be retained in the office where they are required to be filed; (c) which public records are of official value but are consulted and used

⁷⁵⁶ 2 Rev. Stat. 1852, Acts 1865; Burns 57-101 to 57-124; Baldwin 1168 to 1191. Acts 1882; Burns 57-208 to 57-210; Baldwin 1165 to 1167. Acts 1893; Burns 57-125, 57-211 to 57-214; Baldwin 1197, 1192 to 1195.

⁷⁵⁷ Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁷⁵⁸ Acts 1927; Burns 49-3207; Baldwin 14667.

⁷⁵⁹ Acts 1925, 1937; Burns, 1939 suppl., 63-630; Baldwin, 1937 suppl., 10287.

so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed; and (d) which public records are of no apparent official value but do have a historical value. Records of class (a), which occupy space to no purpose in the offices and store rooms of the county, must, three years from the time they were originally filed (unless a law requires that they be kept for a longer period of time), be destroyed or otherwise disposed of, unless a law prohibits their destruction and unless such records are then in frequent use by the officer having charge of the office in which they are located. Records of class (b) will be retained in the office in which they were required to be filed. Records of classes (c) and (d) must be transferred to the state library three years after the date of the filing of such records, unless they are then in frequent use by the officer having charge of the office in which they are located. In the event of such transfer, the records of class (c) will be added to the archives of the library while those of class (d) will constitute a part of the collection of such library.⁷⁶⁰

An act of 1935 created, in the executive department of the state, a commission on public records, consisting of the governor, secretary of the state, state examiner, director of the state library, and the director of the historical bureau. This act is almost identical with the act of 1939 creating a commission of public records in each county, except as to the provisions as to what officers shall be ex officio members of the commission.⁷⁶¹

3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

Obscurity surrounds the history of the early county buildings; the Commissioners' Record was destroyed by fire in 1865—with the exception of two volumes—and the most fruitful source of material is the published recollections of early settlers, which are at best untrustworthy.

According to the most reliable information available,

⁷⁶⁰ Acts 1939; Burns, 1939 suppl., 49-3701 to 49-3710; Baldwin, 1939 suppl., 5492-1 to 5492-10.

See the essay entitled "Commission of Public Records."

⁷⁶¹ Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

the first courthouse was contracted for in the summer of 1828 and was built during the following fall and winter. A two-story frame structure about 40' by 20' in ground dimensions, it was situated on the west side of High Street, north of Main Street and facing the present public square. The lower floor was occupied by the courtroom, while the upper housed the county offices. The frame work was of square-hewn timbers fastened together with wooden pins.¹

This type of construction—which was commonly used with great success in barns of this and later periods—appears to have been inadequate, for we are told that the courthouse quickly became "dilapidated"² and gave signs of "premature decay";³ the chief cause of this dilapidation was the shifting of the timber framework.⁴ The condition of the courthouse was a source of disgust to many citizens: A few years later, when the courthouse caught fire, they worked strenuously to save it, and, having done so, regretted that they had not let it burn.⁵ "It was a nuisance and should have been torn down", declared William Jackson, one of the fire fighters.⁶ His desire was gratified, but not for some years.

In 1836 the commissioners contracted with Morgan John to build a new courthouse "after a very common plan." The contract price is not known. Minus Turner, the county agent, disapproved of the plans and was sent by the board to Centerville, at that time the seat of justice of Wayne County, to procure the plans of the courthouse there. The contractor was persuaded to accept the new plans at the same price—although it was estimated that the increase in cost was from \$1,000 to \$1,500—and subsequently he became bankrupt.⁷ The courthouse was completed in 1837 and was 45' square and 28' in height from ground to eaves. A new bell "not less than 400 pounds in weight" was ordered in 1847 and installed in 1848.⁸

¹ Frank D. Haimbaugh, editor, *History of Delaware County*, (1924), 1:160, 161. T. B. Helm, *History of Delaware County*, (1881), 47.

² Helm, *op. cit.*, 34.

³ *Ibid.*, 47.

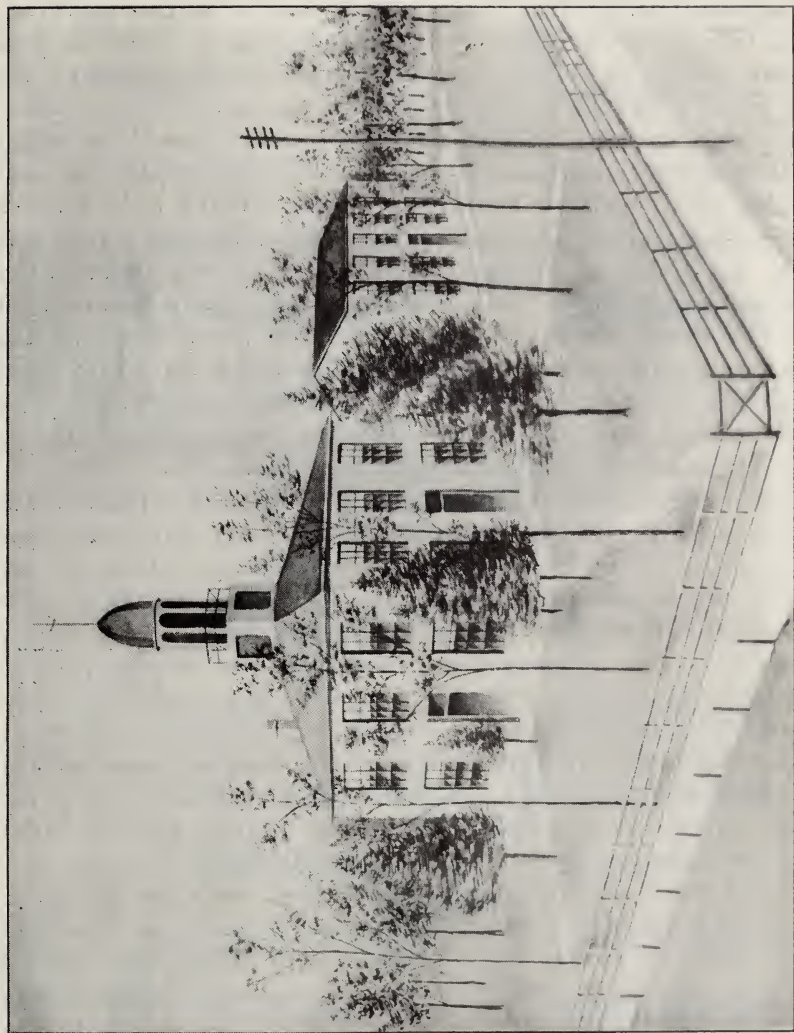
⁴ *Ibid.*, 34.

⁵ *Ibid.* G. W. H. Kemper, *A Twentieth Century History of Delaware County* (1908), 1:59, 60.

⁶ Quoted in Helm, *op. cit.*, 34.

⁷ Minus Turner, quoted in Haimbaugh, *op. cit.*, 1:161, 162. Kemper, *op. cit.*, 1:60.

⁸ Helm, *op. cit.*, 48. Kemper, *op. cit.*, 1:60. Commissioners' Record, 5:55. This bell now hangs in the tower of the present courthouse.



THE MUNCIE PUBLIC SQUARE, *circa* 1880

Left: Second Delaware County Courthouse, 1837-1884

Right: Delaware County Office Building, 1848-1884

The courthouse gave service for many years, but it became crowded only a few years after its completion. In 1846, the clerk was permitted to find quarters outside the courthouse, provided no expense to the county would be incurred thereby.⁹ Two years later, a committee of three was appointed by the board to prepare plans for a county office building, and the contract was let to the firm of Russey, Wysor & Jack on their bid of \$2,696.46.¹⁰ The plan was disapproved by the circuit court, which insisted that it was unwise to centralize all the records in one building, where one fire might destroy them all; and the court recommended instead the construction of a fireproof building for the offices of the clerk and recorder only.¹¹ Nevertheless, the office building was erected as planned. Completed in 1849, it was located immediately north of the courthouse on the public square. It was a two-story brick building, 46' by 26', and 20' from the foundation to the eaves. A central corridor on each floor gave access to the county offices and the four vaults (two on each floor), each 17' by 6'. The vaults had brick floors and ceilings and were closed with iron doors.¹²

The commissioners likewise entered into an extraordinary contract with the builders, whereby the firm was permitted to construct, at their own expense, a basement story to the building and to occupy the same for 50 years, unless at "the requirement of law or the county board said office should be removed" prior to that time, by paying the county \$100 at the rate of five dollars annually; and it was further provided that the firm should never "carry on any business or have in or about the same any thing which shall be a nuisance of any kind whatever" or "suffer the same to be used as a room for vending spiritous or intoxicating drink except beer or cider unless for purpose of sickness or as medicine."¹³

After the completion of the building, rooms in the courthouse were free to be rented to various persons, as was frequently done in those days. The Sons of Temperance rented the grand jury room for 75 cents per month.¹⁴ Apparently they paid as temperately as they drank, for a subsequent

⁹ Commissioners' Record, 5:18.

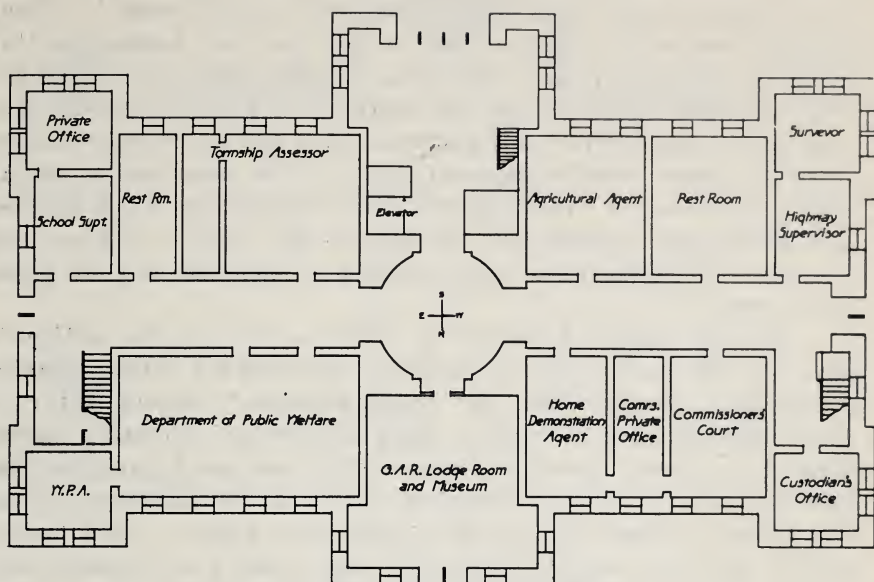
¹⁰ *Ibid.*, 180, 182, 183.

¹¹ Haimbaugh, *op. cit.*, 1:162, 163.

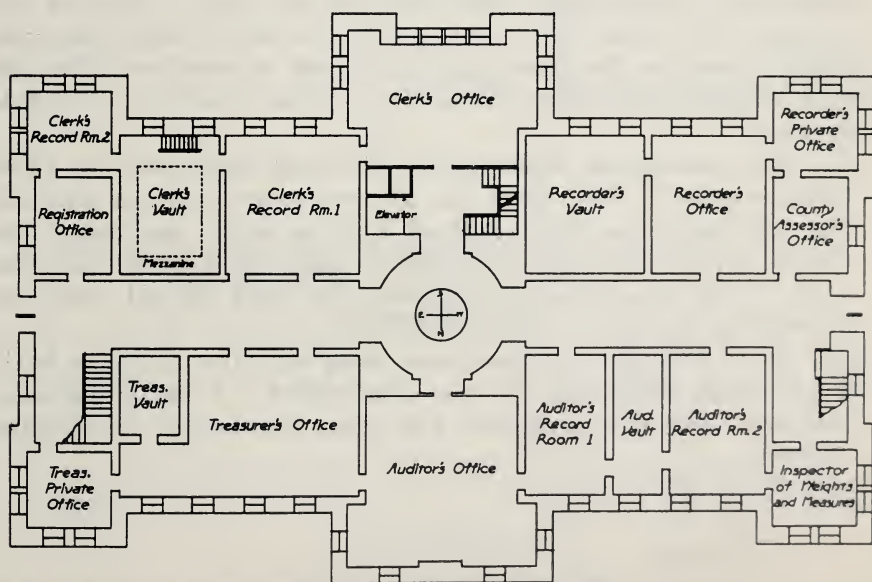
¹² Commissioners' Record, 5:180-182.

¹³ *Ibid.*, 184, 185.

¹⁴ *Ibid.*, 195.



1st Floor - Delaware County Courthouse



2d Floor - Delaware County Courthouse

order lowered the rent already due to 50 cents per month but fixed it "for all time hereafter" at 75 cents.¹⁵ Rent for the use of the entire courthouse "for any exhibition for gain or reward or any gathering of the people for mere diversion other than religious, public, or political meetings" was set at one dollar per day or night; but the commissioners were to have "exclusive controll" of the courthouse during their sessions.¹⁶ Still later, the Freemasons were charged one dollar per month for the use of the clerk's office, and the Sons of Temperance were charged a like sum for the grand jury room.¹⁷

On the night of March 10, 1865, a fire in the auditor's vault in the county office building destroyed a large quantity of records, among them the Commissioners' Record prior to 1846 and, more significantly, the contemporary Commissioners' Record and other financial records. It was said that the fire had been caused by an overheated stove in the basement, which had burned through the floor of the vault above. This explanation did not satisfy everyone, and rumors of incendiarism were common, with the auditor as their principal target. That official, asserting himself angry at such rumors, refused to co-operate with the investigating committee which had been appointed to determine the cause of the fire. Nothing was proved; the committee's report only hinted at shady financial transactions by the county officials and pointed out that the fire seemed unduly discriminating in the records it chose to destroy.¹⁸

The courthouse and office building continued to serve the county until 1884, when the present courthouse was planned. The old buildings were ordered sold at public auction. The office building was so dilapidated that the highest bid—that of D. C. Mitchell—was 10 dollars. No bids at all were received for the old courthouse.¹⁹

It is difficult to ascertain when the first jail was built or of what materials it was constructed. William Jackson, who has been quoted above, has given a detailed description

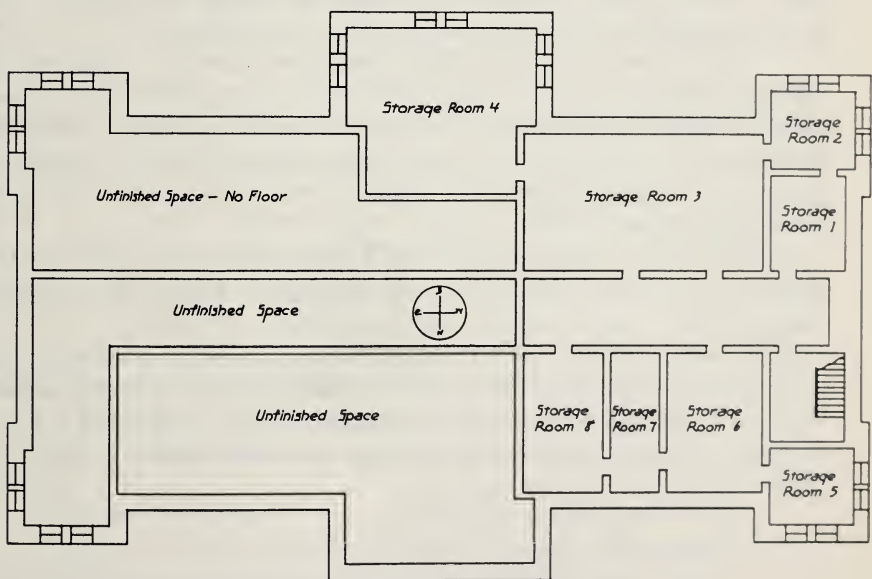
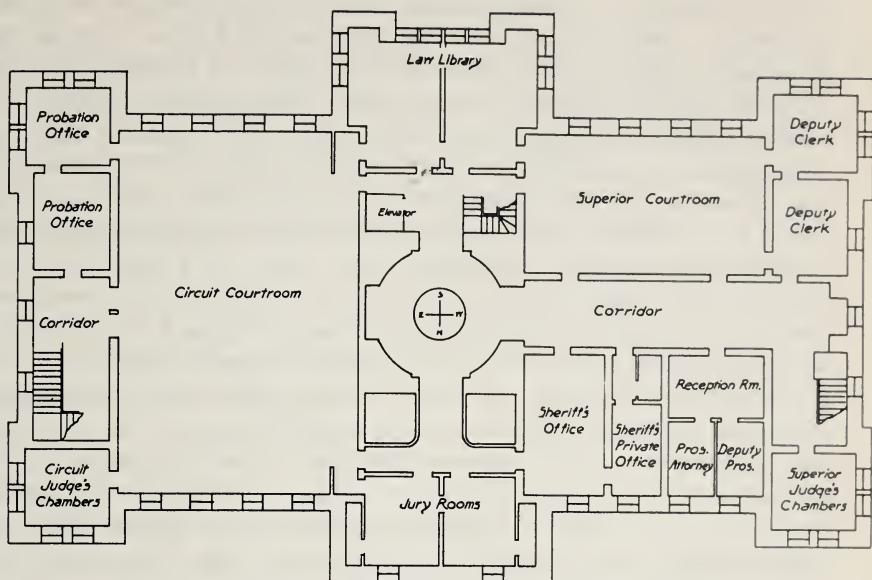
¹⁵ *Ibid.*, 216.

¹⁶ *Ibid.*, 260.

¹⁷ *Ibid.*, 268.

¹⁸ Haimbaugh, *op. cit.*, 1:164-167. Regarding the alleged cause of the fire, it should be remembered that if the building was constructed according to specifications the auditor's vault had a brick floor.

¹⁹ Kemper, *op. cit.*, 1:62. *Muncie Morning Star*, Sept. 16, 1938.



of an early jail, but this apparently was the second.²⁰ Probably, like most of its contemporaries, the first jail was built of logs or hewn timbers. Its site is not known. It was undoubtedly under construction during 1829: A grand jury report during the May term of court that year stated, "There is no jail finished in the County", and the court ordered the board of justices to complete it by the next term.²¹ This was not done, as a subsequent report (in November of the same year) repeated, "There is no sufficient Jail in said County to keep prisoners Safely." Thereupon the court took matters in its own hands, ordering the sheriff to employ enough persons to complete the jail without delay and to guard the prisoners in his custody until the jail should be completed.²²

The second jail was built about 1836 and was situated west of the courthouse on the public square. A two-story brick structure, it included the sheriff's residence, which occupied the north end of the building. The jail proper had inner walls of logs in addition to the outer brick wall; the lower floor was reserved for criminals and the upper floor for debtors.²³ But the latter were allowed the freedom of the "prison bounds", a specified area in which they were at liberty to do much as they pleased, while remaining technically in custody—actually, a modified form of parole. The prison bounds were outlined in 1829 as follows:

"Beginning at a stake bearing North 29° 30' West of the Centre of the jail and distant therefrom 109 poles thence South 84° 30 East 154 poles to a dogwood Sapling thence South 85° 30 West 154 poles to a stake thence North 84° 30' West 154 poles to a hickory Sapling thence North 5° 30 East 154 poles to the beginning."²⁴

The jail, said Jackson, "was very insecure, and many escapes were the result."²⁵ In December 1858, the commis-

²⁰ Quoted in Helm, *op. cit.*, 34. Jackson's description of the jail tallies with a somewhat less detailed description of the second jail in Kemper, *op. cit.*, 1:63. As described by Jackson, it was unusually elaborate for a newly organized county. Moreover, he says that it was located on the square and west of the courthouse; he evidently refers to the second court house, as the first was not located on the square.

²¹ Order Book, Civil, 1:11, see entry 134.

²² *Ibid.*, 1:19, 20.

²³ Jackson's description mentioned above quoted in Helm, *op. cit.*, 34. Kemper, *op. cit.*, 1:63.

²⁴ Order Book, Civil, 1:10.

²⁵ Helm, *op. cit.*, 34.

sioners, having viewed the jail at Winchester, Indiana, issued bonds for a new jail and authorized Thomas A. Neely to prepare plans.²⁶ Contracts were let in February 1859: \$4,947.69 for the ironwork and \$4,467.00 for the building itself.²⁷ The jail was completed late in 1859 and used until 1882.²⁸

On January 21 of that year, the contract for the present jail was awarded to Myers & Company, of Fort Wayne. Completed in the fall of 1883, at a cost of \$20,000 it is still in use, although it has undergone numerous alterations.²⁹

On January 15, 1884, the board of commissioners decided unanimously to build a new courthouse. The Lake Erie & Western Railroad (now apart of the Nickle Plate System) offered the board free transportation to any city for the purpose of examining other courthouses. B. S. Tolan, a Fort Wayne architect, was appointed to prepare plans for the courthouse and on July 15 submitted plans which were approved by the board. The contract was awarded in November to Charles Pearce & Company, of Indianapolis, for \$195,618.46; construction soon began, and the cornerstone was laid on July 23, 1885 with Masonic ceremonies. During the period of construction, Walling Hall, on High Street west of the square, was occupied by the courts, and the other county offices were removed to quarters in a building on the north side of the square. The courthouse was accepted on August 15, 1887 and occupied on October 4. Its total cost was \$227,250.06.³⁰

One hundred and fifty-five feet by 110' in overall dimensions, it is a three-story structure, faced with Joliet limestone. The flooring throughout the building is concrete. The first floor is a so-called "English basement", beneath which is a vault where older records are stored. The first and second floors are devoted mainly to county offices, while the third floor is occupied by the courts and their related offices. The attic contains eight rooms where old records are stored. In general, and except as otherwise noted below, conditions under which the records are housed are satisfactory.

A room-by-room description follows:

Board of Commissioners: Four percent of the records are in

²⁶ Kemper, *op. cit.*, 1:63.

²⁷ Helm, *op. cit.*, 49, 50. For price of ironwork, cf. Kemper, *op. cit.*, 1:63.

²⁸ Haimbaugh, *op. cit.*, 1:174.

²⁹ Kemper, *op. cit.*, 1:63. *Muncie Morning Star*, Sept. 16, 1938.

³⁰ Haimbaugh, *op. cit.*, 1:167-169. Kemper, *op. cit.*, 62. *Muncie Morning Star*, Sept. 16,

the auditor's office, 29 percent in his vault, 4 percent in his record room 1, 1 percent in the basement vault, and 62 percent in attic storage room 3. In addition, three file boxes are in auditor's record room 1; one volume is in attic storage room 4; and one volume is in attic storage room 5.

County Council: All the records are in auditor's record room 1.

Clerk of the Circuit Court: Four rooms—an office, a vault, and two record rooms—house most of the current records of the clerk. The office, situated in the south central portion of the second floor, is 34' by 31' and contains 180' of shelving, located along the east and west walls and under a counter in the center of the room. The shelving is wholly occupied by bound volumes, which comprise 10 percent of the clerk's records and portions of those of the circuit and superior courts. Record room 1, immediately east of the office, is 25' by 23'; its 1000' of shelving are occupied by 900' of volumes and 100' of unbound records in file boxes. Twenty-eight percent of the clerk's records, with portions of the records of the circuit and superior courts, the sheriff, the coroner, the registration officer, and the three election boards, are kept here.

Adjoining record room 1 is the clerk's vault, a room 25' by 18'. A total of 2250' of shelving are contained in the vault, which houses 250' of volumes and 2000' of unbound records in wooden and metal file boxes. A balcony encircles the room, and there a majority of the unbound records are housed; all the volumes are on the lower level. Twenty-four percent of the clerk's records are kept in this room, as well as records of the circuit and superior courts, the coroner, and the three election boards. Record room 2, 14' square, lies at the southeast corner of the second floor, adjacent to the vault. It contains 150' of shelving, which are entirely occupied by bound volumes—8 percent of the clerk's records and a few of the records of the circuit court and the board of canvassers.

Of the clerk's suite, only record room 2 provides space for expansion. Two percent of the clerk's records are in the circuit courtroom, 2 percent in the welfare office, 6 percent in storage room 3, 5 percent in storage room 5, 14 percent in storage room 6, and 1 percent in storage room 8.

Recorder: The recorder's office is located on the south side of the second floor and is 25' by 17'. Equipped with 125' of shelving, it houses 35' of volumes and 90' of unbound records in file boxes. The vault adjoining is 25' by 21'; here, 2963' of shelving house 2800' of volumes. The arrangement of the volumes is orderly and convenient. Nineteen

percent of the records are in the office, 70 percent in the vault, 7 percent in storage room 3, and 4 percent in storage room 6. Less than 1 percent (two volumes) is kept in storage room 5.

Circuit Court: The circuit courtroom, on the east side of the third floor, is equipped with 100' of shelving, housing 25' of volumes and 75' of unbound records, a total of 2 percent of the court's records, with a few of the clerk's. The probation office of the circuit court, at the rear of the courtroom, is 16' by 13' and contains 35' of shelving, on which are housed 2' of volumes and 33' of unbound records in file boxes, these comprising approximately 1 percent of the records. Ten volumes of court records (considerably less than 1 percent of the whole), are kept in the law library, on the south side of the third floor. The remainder of the circuit court records are distributed as follows: Clerk's office, 30 percent; clerk's vault, 50 percent; clerk's record room 1, 3 percent; clerk's record room 2, 4 percent; storage room 3, 2 volumes (less than 1 percent); storage room 5, 3 percent; and storage room 6, 7 percent.

Superior Court: The office of the deputy clerk, who serves as clerk of the superior court, occupies the southwest corner of the third floor and comprises two rooms. Records are housed in the outer office, which is 15' by 14'. Twenty feet of shelving carry 18' of volumes and 2' of unbound records. Twelve percent of the records are kept here, 3 percent in the clerk's office, 77 percent in the clerk's vault, and 8 percent in clerk's record room 1.

Sheriff: The sheriff's office lies opposite the superior courtroom, on the north side of the third floor, and measures 25' by 14'. Under a counter and along the south wall of the room are 148' of shelving, housing 48' of volumes and 100' of unbound records in file boxes. Space for more shelving is available. Forty-seven percent of the records are here; 2 percent are in clerk's record room 1; 7 percent are in storage room 5; and 44 percent are in storage room 6.

Coroner: Twenty-two percent of the records are in the clerk's vault and 78 percent are in clerk's record room 1.

County Assessor: An office 15' by 15', at the west end of the first floor, is occupied by the assessor. One hundred feet of volumes and 50' of unbound records entirely occupy the shelving, and no space can be obtained for more. This, however, does not present a very serious problem, since non-current records can be removed to storage annually. Housed

here are 18 percent of the records. Twenty-two percent are kept in the center township assessor's office, on the south side of the first floor. The remainder are distributed as follows: Basement vault, 32 percent; storage room 3, 22 percent; and storage rooms 5, 7, and 8, each 2 percent.

County Board of Review: Thirty-three percent of the records are in the auditor's office, and 67 percent are in auditor's record room 1.

County Board of Tax Adjustment: All the records are in auditor's record room 1.

Board of Finance: Fifty percent of the records are in the auditor's office, and 50 percent are in auditor's record room 1.

County School Fund Board: All the records are in the auditor's vault.

Treasurer: The treasurer's office lies on the north side of the second floor. Measuring 30' by 25', it is equipped with 35' of shelving, all of which is occupied by volumes. Ample space for expansion of the records is available. The vault, 16' by 12', immediately east of the office, contains 220' of volumes and 50' of unbound records. Here the shelving is entirely occupied, and no space is available for more. Four percent of the treasurer's records are in his office, 30 percent in his vault, 19 percent in the basement vault, 5 percent in storage room 3, 15 percent in storage room 4, 1 percent in storage room 5, 23 percent in storage room 6, and 3 percent in storage room 8.

Auditor: Most of the current records of the auditor are housed in four rooms—an office, a vault, and two record rooms—which lie on the north side of the second floor. The office, 31' by 27', houses 280' of volumes and 20' of unbound records in file boxes; all the shelving is in use. Record room 1 lies west of the office and is 25' by 14'. Here 165' of shelving carry an equal quantity of volumes.

The vault adjoins record room 1 to the west, is 25' by 9', and contains 20' of volumes and 100' of unbound records. The shelving here is likewise wholly occupied. Only a small quantity of records are housed in record room 2, westernmost of the group, and the room has ample space for expansion of the records, with the installation of additional shelving.

The auditor's four rooms contain, besides the auditor's records, records of the board of commissioners; the county council; the boards of review, tax adjustment, and finance; the school fund board; and the department of public welfare. The auditor's records are distributed as follows: Auditor's

office, 7 percent; auditor's vault, 3 percent; auditor's record room 1, 14 percent; auditor's record room 2, 1 percent; township assessor's office, 6 percent; welfare office, 1 percent; basement vault, 24 percent; storage room 2, 5 percent; storage room 3, 20 percent; storage room 5, 1 percent; and storage rooms 6, 7, and 8, each 6 percent.

Registration Officer: The registration office, actually a part of the clerk's suite, lies between clerk's record room 2 and the corridor, and measures 16' by 13'. One hundred feet of shelving house a like quantity of volumes. Very little space for additional shelving can be obtained here. Ninety-two percent of the records are housed here, 5 percent in clerk's record room 1, and 3 percent in storage room 3. One volume is in storage room 5.

Board of Primary Election Commissioners: Six percent of the records are in the clerk's vault, 52 percent in clerk's record room 1, 30 percent in storage room 3, and 12 percent in storage room 5.

County Board of Canvassers: Forty percent of the records are in the clerk's vault, and 20 percent each are in clerk's record room 1, clerk's record room 2, and storage room 5.

County Board of Election Commissioners: Six percent of the records are in the clerk's vault, 50 percent in clerk's record room 1, 29 percent in storage room 3, and 15 percent in storage room 5.

County Board of Education: All the records are in the office of the superintendent of schools.

County Superintendent of Schools: The superintendent's records are kept in his outer office, which lies to the left of the east entrance on the first floor. The room is 16' by 12', and contains 120' of shelving, on which are 64' of volumes and 1 file box of unbound records, the remainder of the shelving being occupied by nonrecord materials. Two file drawers also contain unbound records. No space is available for expansion of the records.

County Health Officer: Approximately 89 percent of the records are kept in the professional office of the incumbent, Dr. C. J. Stoner, at 307 West Adams Street, Muncie. The other 11 percent are in the basement vault.

County Department of Public Welfare: A room 43' by 25', on the north side of the first floor, is occupied by the department of public welfare. Five feet of volumes are housed on shelving and 13' of unbound records in filing cabinets. The present equipment is adequate for the housing of the records, of which 64 percent are housed here together with a few records

of the clerk and the auditor. The remainder of the department's records are in the auditor's vault.

Surveyor: The surveyor's office, 17' by 15', is located at the southwest corner of the first floor. All the surveyor's records—four feet of volumes, as well as a quantity of maps and plans—are kept in this office; space is available for expansion of the records, when necessary.

County Highway Supervisor: Adjoining the surveyor's office, the highway supervisor's office, slightly smaller in size, houses 45 percent of the records of this official. Equipped with 100' of shelving, it houses 20' of volumes and 80' of unbound records in file boxes, which, together with the other equipment in the room, occupy almost all the available space, leaving little or no space for expansion. Forty percent of the records are in the basement vault, and 15 percent in storage room 3.

County Inspector of Weights and Measures: The inspector's office, lying at the northwest corner of the second floor, adjoins auditor's record room 2 and is 14' square. Twenty-four feet of volumes are housed on shelving, on which ample space can be obtained for additional records. All the records of the inspector of weights and measures are kept here.

County Agricultural Agent: The agricultural agent's office is situated on the south side of the first floor, and the office of the home demonstration agent, his assistant, is located directly across the corridor. The former measures 25' by 21', and is equipped with filing cabinets containing 30' of unbound records; the latter is 25' by 14' and houses 10' of unbound records in filing cabinets. In either room there is sufficient space for expansion of the records.

Basement Vault: This room lies beneath the east end of the first floor and is reached by a flight of stairs, the entrance to which is closed by a heavy steel door. The dimensions of the room are 78' by 14' by 8'; lighting is satisfactory but ventilation is poor. Five hundred feet of shelving are located along the east and west walls, as well as in the center of the room, and all the shelving is occupied by volumes. The room could house a considerably larger quantity of records if additional shelving were installed, and its capacity could be increased still further by rearrangement of shelving. Records of the board of commissioners, the assessor, the treasurer, the auditor, the health officer, and the highway supervisor are kept here.

Attic Storage Rooms: Approximately half of the attic is

finished, after a fashion, and partitioned into eight rooms which are used for the storage of old records. The flooring in these rooms is concrete; the walls, brick; the ceiling, the roof of the courthouse. Rooms 1, 3, 6, and 8 have artificial lighting, supplied by drop cords; all of the remainder, except room 7, have natural lighting supplied by windows, but in the latter room, it is necessary to carry an extension cord from an adjoining room. All the rooms are badly in need of cleaning. A reasonable estimate of the quantity of records in most of the rooms is impossible, since the records, with few exceptions, are stacked on the floor.

Room 1, on the west side, contains no records at present. Room 2, at the southwest corner, is 18' by 15'; a few records of the auditor are kept here. Room 3, directly east of rooms 1 and 2, and 40' by 25' in dimensions, contains the greatest assortment of records, including those of the board of commissioners, the clerk, the recorder, the circuit court, the assessor, the treasurer, the auditor, the registration officer, the board of primary election commissioners, the board of election commissioners, and the highway supervisor. The one tier of shelving which the room contains is unused. Volumes are stacked on the floor, as are wooden packing cases containing file boxes of unbound records.

Room 4, whose dimensions are 34' by 29', is in much the same condition, but contains no unbound records. Only treasurer's records are stored here, with the exception of one volume belonging to the board of commissioners. Room 5, at the northwest corner, is 15' by 14'. Its 200' of shelving are wholly occupied by volumes, comprising portions of the records of the board of commissioners, the clerk, the recorder, the circuit court, the sheriff, the assessor, the treasurer, the auditor, the registration officer, and the three election boards. Room 6, 25' by 17', has approximately 100' of shelving, which house bound tax receipts; an undetermined quantity of larger volumes are stacked on the floor. Here are housed records of the clerk, the recorder, the circuit court, the sheriff, the treasurer, and the auditor.

Room 7, measuring 25' by 9', has one tier of shelving. This is inadequate for the large quantity of records, and volumes are stacked on the floor, as well as unbound records in cardboard cartons. Only records of the assessor and the auditor are kept in this room. Room 8, which is 25' by 14', has no shelving and is similar in condition to room 7, housing records of the clerk, the assessor, the treasurer, and the auditor.

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5. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

The Style Manual of the United States Government Printing Office is the authority followed herein.

Acts	[Session] Laws of the State of Indiana (commonly referred to by binder's title, <i>Acts</i>)
agr. agt.	agricultural agent('s)
alph.	alphabetical(ly)
App.	Appellate court reports of the State of Indiana
approx.	approximate(ly)
arr.	arranged
art.	article
assr.	assessor('s)
aud.	auditor('s)
Baldwin	Baldwin, William Edward, editor, <i>Baldwin's Indiana Statutes Annotated 1934</i>
bd.	board
bdl.	bundle(s)
bk.	book
Blackf.	<i>Blackford Reports</i>
bldg.	building
bsmt.	basement
Burns	Burns, Harrison, editor, <i>Annotated Indiana Statutes</i>
c	copyright (before date)
C. C.	County Courthouse
cf.	compare
ch.	chapter
chron.	chronological(ly)
cir. ct.	circuit court
clk.	clerk('s)
comr.	commissioner(s')
Const.	Constitution of Indiana (refers to present constitution unless date follows)
cor.	coroner
ct. rept.	court reporter
diam.	diameter
et	and
et al.	et alii—and others
et seq.	et sequentia—and following

<i>ex rel.</i>	<i>ex relations</i> —upon relation of. (Designates the person at whose instance the state or a public officer is acting)
f. b.	file box(es)
f. d.	file drawer(s)
hdw.	handwritten
high. sup.	highway supervisor('s)
H. J.	House Journal (Indiana House of Representatives)
hlth. offr.	health officer('s)
<i>ibid.</i>	<i>ibidem</i> (same reference as that immediately foregoing)
Ind.	Indiana: Indiana Reports (when preceded by the volume number, reference is to the official state supreme court reports)
insp.	inspector
juv.	juvenile
Laws Ind. Terr.	<i>Laws of Indiana Territory, The: 1801-1809, 1809-1816</i> (See Bibliography, under Philbrick, Francis S. and Ewbank, Louis B.)
Laws N. W. Terr.	<i>Laws of the Northwest Territory, The: 1788-1800</i> (See Bibliography, under Pease, Theodore C.)
lb.	pound
<i>loc. cit.</i>	<i>loco citato</i> —in the place cited. (After the name of book or article, refers to previous page(s) cited in the same work)
mi.	mile
n.	note
n. d.	no date
N. E.	<i>North Eastern Reporter</i> (judicial decisions) 2d—Second series
no., nos.	number(s)
off.	office
offr.	officer
<i>op. cit.</i>	<i>opere citato</i> —in the work cited. (After author's name, refers to previous work cited under his name)
p., pp.	page(s)
<i>passim</i>	here and there (referring to references too numerous to enumerate)
<i>pro tem.</i>	<i>pro tempore</i>
prob. comr.	probate commissioner
pros. atty.	prosecuting attorney('s)

pt.	part
ptd.	printed
pub. welf.	public welfare
pvt.	private
rec.	record
recr.	recorder('s)
reg.	register
Rev. Laws	<i>Revised Laws of the State of Indiana</i>
Rev. Stat.	<i>Revised Statutes of the State of Indiana</i>
rm.	room
sec., secs.	section(s)
sher.	sheriff('s)
sic.	thus (indicating expression, misspelling, etc., are the same as in the original)
S. J.	Senate Journal (Indiana Senate)
Spec. Sess.	Special Session
sta.	station
stat.	statutes
stor.	storage
sub-bsmt.	sub-basement
suppl.	supplement
supr. ct.	superior court
supt.	superintendent('s)
surv.	surveyor('s)
treas.	treasurer('s)
twp., twps.	township(s)
U. S.	United States
U. S. C.	United States Code
v.	versus
vol., vols.	volume(s)
vt.	vault
'	foot, feet
"	inch(es) (omitted after dimensions in entries)
x	by, in dimensions

EXPLANATORY NOTES

The inventory of the records of each branch of the county government is preceded by an essay explaining its legal status and functions.

In some instances, records shown as being legally required do not appear in the inventory. Such omissions reflect the record situation and are not the result of an inadequate survey.

Entries are grouped under a functional classification, with headings and subheadings according to relative functions and with cross-references to allied subjects. Every entry has two parts or paragraphs: Title and description. Occasionally an entry has a third (cross-reference) paragraph.

I. The title paragraph consists of:

Entry number. The entries are numbered consecutively.

Exact title (in capitals and small capitals) as it appears on the record. Titles enclosed in brackets are supplied by The Historical Records Survey, if the volume or file bears no title. Supplementary titles (in capitals and lower-case letters), enclosed in brackets, are also supplied where it is necessary to explain the types of records more fully, or where the exact title borne by the record is incorrect, misleading, or nondescriptive.

Dates of the period covered by the record, showing inclusive beginning and ending dates by years only. Missing records are indicated by a break in the dates. A dash in place of an ending date denotes an open record. In entries, where one or more records are replaced by another record, the month and day are given for the discontinued record. In entries of open records, when the last entry is not current, a note follows: "Last entry"—with day, month, and year. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior or subsequent records, no definite information could be obtained.

Quantity and labelling, given in chronological order wherever possible.

Variations in title. Current or most recent title used as entry title; if former titles vary, they are shown.

Changes in keeping records. Occasionally the county record is discontinued or is kept by some other authority—state or other county office.

II. The description consists of:

A statement of the nature, contents, and purpose of the record, with a summary of the column headings or subjects treated. The current record, except as otherwise noted, is described. The contents over a long period of years may themselves vary; therefore, over the entire period the description may vary to some degree. In the description of map and plat records, the scale and the names of the author and publisher are given whenever available. No mention thereof denotes that these data are not known.

Method of arrangement: Chronological, topical, or other system.

Method of indexing, pertaining to self-contained indexes. Separate indexes are noted also, with a cross-reference thereto.

Nature of recording: Handwritten, typewritten, or printed. Modern records are almost exclusively in printed form, filled in by hand or typewritten as stated in entry. Maps and plates are drawn, blueprinted, or printed.

Condition. Omitted if good or excellent.

Number of pages averaged for a series.

Size of volumes in the order of height, width, and thickness, averaged for a series; of file boxes and file drawers, in the order of height, width, and depth. It is given in inches in all instances; hence the inch sign is omitted.

Location. The place of custody (the room in which the records are located) is in the courthouse unless another building is specified either in the entry or in the essay on the legal status of the office. The locations given are those effective at the time the survey was made.

III. Cross-referencing may occur in three places:

In the title paragraph it is used to show a complete series where another method of keeping the record was used in the past or is used at present; also, to show other records with which the record is combined.

In the description paragraph, to show the contents of volumes or files containing unrelated records.

In the third paragraph, to prior and subsequent records or allied subjects; to subjects on which supplementary information may be found in other entries; and to records which have related functions.

PART B. COUNTY OFFICES AND THEIR RECORDS

I. BOARD OF COMMISSIONERS

The board of commissioners of Delaware County is a statutory body composed of three members,¹ elected for terms of three years, each term commencing in a different year.² Each commissioner holds office until his successor has been elected and qualified.³ He receives a certificate of election from the clerk of the circuit court, and is not commissioned by the governor.⁴ The county is divided into three districts; and one commissioner is elected from the residents of each district by the voters of the whole county.⁵ A commissioner must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;⁶ and, while holding the office of county commissioner, he must reside within the county, and must not hold any other lucrative office.⁷ Each commissioner must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸ He receives a regular salary of \$800 per year.⁹

For sufficient legal grounds any county commissioner may be removed by the circuit court or superior court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹⁰ If any commissioner is

¹ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

² 1 Rev. Stat. 1852; Burns 26-603; Baldwin 5217. Acts 1885; Burns 26-604; Baldwin 5218.

³ Const., art. 15, sec. 3. Acts 1885; Burns 26-604; Baldwin 5218.

⁴ Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

⁵ 1 Rev. Stat. 1852; Burns 26-602; Baldwin 5216.

⁶ Const. 1816, art. 11, sec. 14. Const., art. 6, sec. 4.

⁷ Const. 1816, art. 11, secs. 6, 13. Const., art. 2, sec. 9; art. 6, sec. 6.

⁸ Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 26-605; Baldwin 5219.

⁹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

convicted of a felony the judgment of conviction must declare his office vacant.¹¹

Any vacancy in the office of county commissioner, or any prospective vacancy caused by death or resignation before time for commencement of the term of a commissioner-elect, is filled at any time through appointment by the commissioners in office. In the event of a tie vote, the auditor casts the deciding vote.¹²

Since July 31, 1830, the general administrative control of county matters has been vested in a board of commissioners, composed of three members (individually known as county commissioners) elected by voters of the whole county from the residents of three commissioners' districts, subject to exceptions herein stated. From the creation of the county (April 1, 1827) until July 31, 1830, county business was transacted by a board of justices composed of all the justices of the peace in the county. Since 1899, many powers of a fiscal nature (including the making of tax levies) previously exercised by the board of commissioners have been vested exclusively in the county council.¹³

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Delaware." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.¹⁴ In legal contemplation, the board is the county.¹⁵

The principal functions of the board are: Control of county property; allowance of claims against the county;¹⁶ to provide office rooms for county officers;¹⁷ construction

¹¹ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹² 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

¹³ Const., art. 6, sec. 10. Acts 1816-17, ch. 15, sec. 1. Acts 1817-18 (general), ch. 41, sec. 1. Rev. Laws 1824, chs. 15, 16. Acts 1826-27, ch. 10, secs. 4, 6; ch. 13, secs. 1, 11. Acts 1829-30, ch. 15. Rev. Laws 1831, ch. 20. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, secs. 1-3. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 17, 18, 21, 22. Acts 1899; Burns 26-501 to 26-551; Baldwin 5365 to 5414. 1 Rev. Stat. 1852; Burns 26-601 to 26-639; Baldwin 5215 *et seq.* Snider v. State *ex rel.* Leap (1934), 206 Ind. 474, 190 N. E. 178.

¹⁴ 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220.

¹⁵ Dice v. County Board of Finance (1934), 99 Ind. App. 405, 192 N. E. 770.

¹⁶ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26-807; Baldwin 5256.

¹⁷ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241.

and repair of roads,¹⁸ bridges, culverts,¹⁹ and county buildings;²⁰ purchase of materials and supplies;²¹ exercise of the power of eminent domain;²² preparation of annual budget estimates;²³ issuance of bonds;²⁴ establishment of new townships, and change of township²⁵ and precinct²⁶ boundary lines; to provide rooms, booths, ballot boxes, and voting machines for elections;²⁷ establishment and maintenance of libraries²⁸ and hospitals;²⁹ inspection of county jail³⁰ and poor asylum;³¹ subscription to and preservation of newspapers printed in the county;³² maintenance of standards of weights and measures;³³ reproduction of mutilated or decayed records;³⁴ regulation of traffic on highways;³⁵ authorization of payment of bounties;³⁶ offering rewards in case of murder or lynching;³⁷ enforcement

¹⁸ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

¹⁹ Acts 1905, 1907, 1929; Burns 36-1901 *et seq.*; Baldwin 9236 *et seq.* Acts 1905, 1911, 1913; Burns 36-2001 *et seq.*; Baldwin 9191 *et seq.* Acts 1920 (Spec. Sess.); Burns 36-2404; Baldwin 9154.

²⁰ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1907; Burns 26-2002, 26-2004; Baldwin 5101, 5103.

²¹ Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

²² Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

²³ Acts 1899; Burns 26-516, 26-519; Baldwin 5380, 5383.

²⁴ 1 Rev. Stat. 1852, Acts 1869; Burns 26-1001 *et seq.*; Baldwin 5242 *et seq.*

²⁵ Acts 1859; Burns 26-701; Baldwin 16055. Acts 1919; Burns 26-705; Baldwin 16059.

²⁶ Acts 1889, 1907; Burns 29-801 *et seq.*; Baldwin 7089 *et seq.* Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

²⁷ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135.

²⁸ Acts 1917, 1921, 1927; Burns 41-510; Baldwin 10321.

²⁹ Acts 1903; Burns 22-3201; Baldwin 4507.

³⁰ Acts 1909; Burns 13-1008; Baldwin 13460.

³¹ 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

³² 1 Rev. Stat. 1852; Burns 26-626; Baldwin 5285.

³³ 1 Rev. Stat. 1852; Burns 69-101.

³⁴ Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340.

³⁵ Acts 1919; Burns 36-706; Baldwin 8899.

³⁶ 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 to 26-1103, 26-1105, 26-1106; Baldwin 5288, 3802, 5289, 5293, 5294.

³⁷ Acts 1859; Burns 26-1104; Baldwin 5290.

of its orders;³⁸ appointment of highway supervisor³⁹ and health officer;⁴⁰ employment of a county attorney⁴¹ and tax ferrets;⁴² removal of a delinquent county treasurer after suit on his official bond has been commenced;⁴³ and appointment of successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, and treasurer.⁴⁴

The members of the board of commissioners are ex officio members of the board of finance.⁴⁵ The president of the board of commissioners is an ex officio member of the commission of public records.⁴⁶

Before 1909, the board of commissioners audited the books and accounts of all officers handling county funds. Since 1909, such duties have been performed by the state examiner instead of the board of commissioners.⁴⁷

The board of commissioners has always had the power to establish, construct, and maintain roads. From 1879 until 1913, the board constituted, ex officio, a board of turnpike directors for the management and control of all free turnpikes in the county.⁴⁸ From 1913 until 1933, county roads were in charge of a superintendent of highways appointed by the board.⁴⁹ Since 1933, the supervision of county roads has been a duty of the surveyor unless the board appoints a county highway supervisor.⁵⁰ There is a county highway supervisor in Delaware County.⁵¹

³⁸ 1 Rev. Stat. 1852; Burns 26-619; Baldwin 5233.

³⁹ Acts 1933; Burns 36-1110; Baldwin 8708.

⁴⁰ Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

⁴¹ Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

⁴² Acts 1905; Burns 64-2830; Baldwin, 1935 suppl., 15696-1.

⁴³ 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

⁴⁴ 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁴⁵ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. See the essay entitled "Board of Finance."

⁴⁶ Acts 1939, ch. 91, sec. 1. See the essay entitled "Commission of Public Records."

⁴⁷ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁴⁸ Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

⁴⁹ Acts 1913, ch. 330, sec. 1.

⁵⁰ Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708.

⁵¹ See the essay entitled "County Highway Supervisor."

A regular session of the board of commissioners begins on the first Monday of each month and continues so long as the necessary business of the session requires.⁵² Special sessions are held when called by the auditor, or, in case of death or disqualification, by the clerk of the circuit court or the recorder, respectively.⁵³ Any two members constitute a quorum to do business.⁵⁴ The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.⁵⁵ All meetings of the board are open to the public.⁵⁶ The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.⁵⁷ Whenever, in the trial of any cause, two or more members of the board are disqualified, the circuit judge appoints special commissioners to act in their places.⁵⁸

Though appeals may be taken to the circuit court or superior court to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.⁵⁹ Appeals are authorized in proceedings concerning claims against the county,⁶⁰ removal of county seat,⁶¹ establishment or vacation of public ferry,⁶² and highway matters.⁶³

The auditor, as clerk of the board, attends its meetings, keeps a record of the proceedings, and preserves in his office all the books and papers touching the business of the county.⁶⁴

⁵² Acts 1899; Burns 26-550; Baldwin 5221.

⁵³ Acts 1863, 1899; Burns 26-607 to 26-610; Baldwin 5222 to 5225.

⁵⁴ 1 Rev. Stat. 1852; Acts 1929; Burns 26-601; Baldwin 5215.

⁵⁵ 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

⁵⁶ 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

⁵⁷ 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

⁵⁸ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

⁵⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. 1 Rev. Stat. 1852; Burns 26-901. *State ex rel. Starry v. Board of County Comrs.* (1893), 136 Ind. 207, 35 N. E. 1100.

⁶⁰ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

⁶¹ Acts 1885 (Spec. Sess.); Burns 26-410.

⁶² 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

⁶³ Acts 1905; Burns 36-1501; Baldwin 8858.

⁶⁴ 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

PROCEEDINGS AND REPORTS

1. COMMISSIONERS' RECORD, 1846-59, Apr. 1865-. 32 vols. (5, 6, 8-37). 1827-Apr. 1846, 1860-Mar. 1865 destroyed in courthouse fire.

Minutes of meetings and proceedings of board of commissioners, concerning all county business, showing date and place of meeting, names of members present, subjects discussed, and action taken. Also contains: Commissioners' Liquor License and Bond Record, 1846-59, 1865-1912, entry 8; Retailers' Bond Record, 1846-59, 1865-94, entry 9; Claim and Allowance Record, 1846-59, 1865-1902, entry 22; Record of Roads, 1875-, entry 28; Commissioners' Ditch Record, 1846-59, 1865-1914, 1931-, entry 30. Arr. chron. by dates of meetings. Indexed alph. by subjects discussed. 1846-59, Apr. 1865-Apr. 3, 1912, hdw.; Apr. 22, 1912-, typed. 500 pp. 18 x 12 x 3. Aud. rec. rm. 1.

2. COMMISSIONERS' COURT MINUTE BOOK, 1917-Aug. 7, 1934. 4 vols. Discontinued.

Minutes of meetings of commissioners' court, showing date of meeting, names of commissioners present, nature of business transacted, and decisions of court. Arr. chron. by dates of meetings. No index. Hdw. 400 pp. 18 x 12 x 2. 3 vols., 1917-26, bsmt. vt.; 1 vol., 1927, Aug. 7, 1934, aud. rec. rm. 1.

3. COMMISSIONERS' DOCKET, 1870-1912. 11 vols. (1 vol. not labelled, 1-10). Discontinued.

Record of causes filed for action in commissioners' court, showing dates of filing and action, names of principals, cause number, nature of action, and volume and page reference to Commissioners' Record, entry 1. Arr. chron. by dates of filing. No index. Hdw. 350 pp. 16 x 12 x 3. Aud. vt.

4. [COMMISSIONERS' MISCELLANEOUS PAPERS], 1837-. 729 f.b., 6 cartons.

Miscellaneous documents filed for action of board of commissioners, including:

- i. Applications for liquor licenses, remonstrances, petitions, bids, contracts, bonds, viewers' reports and all other documents pertaining to county business, showing, dates of document and filing, kind of document, nature of action, names of principals, and disposition.
- ii. Auditor's and treasurer's annual reports to board of commissioners on receipts and disbursements of

county revenue 1846-, showing dates of report and filing, amount on hand for fiscal year, total receipts and disbursements, names of funds credited and debited, and balance in treasury.

- iii. Grand jury reports to board of commissioners on inspection of county institutions 1860-, showing dates of report and filing, name and condition of institution, and comments or recommendations of jury.

Also contains: Reports of County Poor Asylum, 1889-1930, entry 5; County Officials' Requisitions, 1837-1903, entry 13; Road Material, 1837-1926, 1928-, entry 16; Bids for Co[unty] Supplies, Rejected 1837-1929, 1935-, entry 17; Accepted Bids, Bridge Contracts, 1837-1918, entry 18; County Contract Papers, 1837-1930, entry 19; Poor Relief Claims, 1837-1912, entry 23; Road Petitions, 1837-1907, entry 29; [Auditor's Miscellaneous Papers], 1837-1906, entry 297. 1837-1934, no obvious arr; 1935-, arr. chron. by dates of documents. No index. Hdw. and typed. 660 f. b., 5 x 4 x 10; 69 f. b., 10 x 5 x 14; cartons, 13 x 21 x 80. 660 f. b., 1837-1916, attic stor. rm. 3; 6 cartons, 1917-34, bsmt. stor. rm.; 69 f. b., 1935-, aud. vt.

- 5. REPORTS OF COUNTY POOR ASYLUM, 1931-. 10 f. b. 1889-1930 in [Commissioners' Miscellaneous Papers], entry 4.

Reports made by superintendent of county poor asylum to county commissioners on condition and management of institution, showing date of report, names of superintendent and inmates, and condition of buildings and equipment. Arr. chron. by dates of reports. No index. Hdw. 10 x 5 x 14. Aud. vt.

- 6. INVOICE OF POOR FARM, 1889-Mar. 1902. 1 vol.

Record of inventory of property of county poor farm, showing date of inventory, names of appraisers, and kind, quantity and appraised value of household furnishings, farm equipment, live stock, tools, feed, grain and all articles owned by the institution. Arr. chron. by dates of inventories. No index. Hdw. 100 pp. 16 x 9 x 1/2. Bsmt. vt.

- 7. OLD PAPERS OF INFIRMARY, 1913-16. 6 f. b.

Registration papers of inmates of infirmary, showing names, address, age, and case histories of inmates, and date admitted. Arr. chron. by dates of admittance. No index. Hdw. 10 x 5 x 14. Attic. stor. rm. 3.

LIQUOR LICENSES (see also entry 4i)

- 8. COMMISSIONERS' LIQUOR LICENSE AND BOND RECORD, 1913-

Dec. 6, 1917. 1 vol. Discontinued by an act of 1918.

1846-59, 1865-1912 in Commissioners' Record, entry 1. Commissioners' record of meetings held for the issuing or renewal of permits to retail alcoholic beverages, showing dates of meeting, petition and bond, names of applicant, surety and board members, amount of bond, description and location of business, and decision of board. Also contains: Retailers' Bond Record, Sept. 1913-17, entry 9. Arr. chron. by dates of meetings. Indexed alph. by names of applicants. Typed. 500 pp. 16 x 12 x 2. Aud. vt.

9. RETAILERS' BOND RECORD, 1895-Aug. 1913. 5 vols. (1 vol. not labelled, 1-4). Discontinued by an act of 1918. 1846-59, 1865-94 in Commissioners' Record, entry 1; Sept. 1913-Dec. 6, 1917 in Commissioners' Liquor License and Bond Record, entry 8.

Record of bonds posted for retailing alcoholic beverages, showing dates of bond and expiration, names of applicant and surety, amount of bond, and description and location of business. Arr. chron. by dates of bonds. Indexed alph. by names of applicants. Hdw. 200 pp. 18 x 14 x 2. Aud. vt.

10. REGISTER OF LIQUOR LICENSE, 1912-Mar. 1913. 1 vol. Discontinued.

Record of licenses issued to individuals or companies to retail liquor, showing dates of issue, renewal, expiration and transfer, to whom issued or transferred, number of license, and volume and page reference to Retailers' Bond Record, entry 9. Arr. num. by license numbers. No index. Hdw. 300 pp. 16 x 12 x 2. Aud. vt.

BOND ISSUES

11. REGISTER OF BONDS, 1880-. 1 vol.

Record of all bond issues (except free gravel road bonds) to defray county expenditures, showing dates of issue, sale, maturity and redemption, number and amount of bond, rate of interest, kind of bond, and name of purchaser. Arr. num. by bond nos. No index. Hdw. 256 pp. 18 x 12 x 3. Aud. off.

12. REGISTER OF BONDS OF FREE GRAVEL ROADS, 1880-. 1 vol.

Register of bonds issued for construction and maintenance of gravel roads, showing dates of issue, sale and maturity, purpose and amount of issue, names of purchaser and road, and rate of interest. Arr. chron. by dates of bond issues. Indexed alph. by names of roads. Hdw. 256 pp. 18 x 12 x 2. Aud. off.

REQUISITIONS, BIDS AND CONTRACTS

13. COUNTY OFFICIALS' REQUISITIONS, 1904-. 6 f. b. 1837-1908 in [Commissioners' Miscellaneous Papers], entry 4.

Original requisitions for supplies and equipment ordered by county officials, showing dates of requisition and filing, name of official, and itemized list and estimated cost of material requested. Arr. by names of offices, thereunder chron. by dates of filing. No index. Hdw. and typed. 10 x 5 x 14. Aud. off.

14. REQUISITIONS, 1934-. 4 vols.

Record of supplies and equipment ordered by county officials, showing dates of requisition and approval, name of official, and itemized list and cost of material requested and approved. Arr. by names of offices, thereunder chron. by dates of requisitions. No index. Hdw. 100 pp. 12 x 10 x 1. Aud. off.

15. BIDDERS' RECORD, 1935-. 1 vol.

Record of bids for supplies and materials for county projects and institutions, and construction, repair, and maintenance of county roads, showing dates bid requested, opened and accepted, names of bidder and sureties, amounts and terms of bid and bond, and reason for rejecting bid. Arr. chron. by dates bids opened. No index. Hdw. 320 pp. 18 x 14 x 2. Aud. vt.

16. BIDS FOR ROAD MATERIAL, 1927. 1 f. b. 1837-1926, 1928- in [Commissioners' Miscellaneous Papers], entry 4.

Bids for material for construction, repair and maintenance of county roads, showing dates of bid and opening, name and address of bidder, amount of bid and kind of material. Arr. chron. by dates of bids. No index. Hdw. and typed. 10 x 5 x 14. Aud. rec. rm. 2.

17. BIDS FOR CO[unty] SUPPLIES, REJECTED, 1930-34. 2 f. b. 1837-1929, 1935- in [Commissioners' Miscellaneous Papers], entry 4.

Rejected bids for supplies and materials for county projects and institutions, showing dates of bid, filing and rejection, name of bidder, nature and amount of bid, and reason for rejection. Arr. chron. by dates of filing. No index. Typed. 10 x 5 x 14. Aud. rec. rm. 2.

18. ACCEPTED BIDS, BRIDGE CONTRACTS, 1919-. 7 f. b. 1837-1918 in [Commissioners' Miscellaneous Papers], entry 4.

Bids and contracts for bridge construction, showing dates of bid, contract and acceptance, names of bidder, contractor and sureties, amounts of bid and bond, term of contract, and

specification of material and labor. Arr. chron. by dates of acceptance. No index. Hdw. and typed. 10 x 5 x 14. Aud. vt.

19. COUNTY CONTRACT PAPERS, 1931-. 65 f. b. 1837-1930 in [Commissioners' Miscellaneous Papers], entry 4. Contracts for equipment and supplies of county institutions, showing date of contract, name of contractor, amount, nature and terms of contract, and location and description of project. Arr. chron. by dates of contracts. No index. Hdw. and typed. 10 x 5 x 14. Aud. vt.

20. INSURANCE RECORD, AUDITOR, 1850-. 1 vol.

Record of insurance contracts on county institutions, showing number and expiration date of policy, kind of insurance, names of company, agent and property insured, amounts carried on building and equipment, and total premium. Arr. by names of county institutions. No index. 160 pp. 16 x 11 x 2. Aud. rec. rm. 1.

21. INSURANCE POLICIES, 1937-. 1 f. b.

Original insurance policies in force covering county buildings and property, showing name of insurance company, description and location of property insured, and date, number, amount, premium, type and terms of policy. Arr. by names of institutions, thereunder, chron. by dates of policies. No index. Typed. 10 x 5 x 14. Aud. vt.

CLAIMS AND ALLOWANCES

22. CLAIMS AND ALLOWANCE RECORD, 1903-. 10 vols. (1 vol. not labelled, 1-9). 1846-59, 1865-1902 in Commissioners' Record, entry 1.

Record of claims presented to and allowances made by commissioners' court for county expenditures, showing date, nature, number and amount of claim, name of claimant, and date and amount of allowance. Also contains: Register of Allowances for Free Gravel Roads, Mar. 2, 1905-, entry 24; Register of Allowances Free Gravel Road Repairs, 1912-, entry 25. Arr. num. by claim numbers. No index. Hdw. 400 pp. 16 x 12 x 3. 1 vol., 1903-1911, and. rec. rm. 1; 4 vols., 1912-1924, aud. vt.; 5 vols., 1925-, aud. off.

23. POOR RELIEF CLAIMS, 1913-. 102 f. b. 1837-1912 in [Commissioners' Miscellaneous Papers], entry 4.

Claims redeemed for merchandise, medical care, and other poor relief service rendered by township trustees, showing dates of claim, allowance and filing, names of recipient, vendor, trustee and account or fund charged, and amount and

nature of claim. Arr. chron. by dates of filing. No index. Hdw. 10 x 5 x 14. Aud. vt.

24. REGISTER OF ALLOWANCE FOR FREE GRAVEL ROADS, 1896-Mar. 1, 1905. 1 vol. Mar. 2, 1905- in Claim and Allowance Record, entry 22.

Record of expenditures for construction of free gravel roads, showing date and amount of allowance, names of township, claimant and road, nature of claim, and receipt number. Arr. chron. by dates of allowances. No index. Hdw. 300 pp. 16 x 16 x 2½. Attic. stor. rm. 5.

25. REGISTER OF ALLOWANCES FREE GRAVEL ROAD REPAIRS, 1896-1911. 1 vol. 1912- in Claim and Allowance Record, entry 22.

Record of disbursements for repair of free gravel roads, showing dates of warrant and allowance, to whom issued, cost of labor, cost and kind of material, and name of road. Arr. chron. by dates of warrants. No index. Hdw. 320 pp. 14 x 12 x 2. Attic. stor. rm. 4.

26. BURIAL RECORD OF SOLDIERS, SAILORS AND MARINES, 1894-1 vol.

Record of allowances made by board of commissioners for burial of veterans, showing dates of allowance, enlistment, discharge and death, name, age, and rank of deceased, places of death and burial, type of service, and cost of interment. Arr. alph. by names of deceased. No index. Hdw. 160 pp. 18 x 12 x 2½. Aud. off.

For other military records, see entries 27, 102-104.

27. SOLDIERS' BURIAL PAPERS, 1894-. 3 f. b.

Certificates of burial claims for soldiers, showing date of claim, name, age, and rank of soldier, dates of birth, enlistment, discharge and death, cost and place of interment, and name of payee. Arr. alph. by names of soldiers. No index. Hdw. 10 x 5 x 14. Aud. vt.

For other military records, see entries 26, 102-104.

PUBLIC IMPROVEMENTS

(See also entries 236-238, 275-279, 381-385)

28. RECORD OF ROADS, 1865-74. 1 vol. 1875- in Commissioners' Record, entry 1.

Record of actions and proceedings on petitions for construction and maintenance of roads, showing dates of petition, remonstrances and action, names of petitioners, remonstrators and road viewers' reports, engineers' estimates, specifications,

bids, contracts, and notice of publication, amount of contractor's bond, and total cost. Arr. chron. by dates of actions. Indexed alph. by names of roads. Hdw. 350 pp. 20 x 14 x 3. Aud. vt.

29. ROAD PETITIONS, 1908-. 22 f. b. 1837-1907 in [Commissioners' Miscellaneous Papers], entry 4.

Reports and petitions for construction and repair of county roads, showing date of filing, names of petitioners, and name, location and type of road. Arr. by names of roads. No index. Hdw. 10 x 5 x 14. Aud. off.

30. COMMISSIONERS' DITCH RECORD, 1915-30. 2 vols. (31, 32). 1846-59, 1865-1914, 1931- in Commissioners' Record, entry 1.

Record of actions and proceedings on petitions for construction and maintenance of ditches, showing dates of petition, remonstrances and action, names of ditch, petitioners and remonstrators, location and description of ditch, and final disposition. Arr. chron. by dates of actions. Indexed alph. by names of ditches. Typed. 580 pp. 18 x 12 x 3. Aud. off.

II. COUNTY COUNCIL

The Delaware County Council is a statutory body created by an act of 1899, commonly referred to as the County Reform Law.¹ The council is composed of seven members. A councilman is elected for a term of four years, and holds his office until his successor has been elected and qualified. The county is divided by the board of commissioners into four councilmanic districts; and one councilman is elected by the voters of each district. Three councilmen at large are elected by the voters of the whole county.² A councilman receives a certificate of election from the clerk of the circuit court and is not commissioned by the governor.³ Members of the first council were appointed in 1899 by the judge of the circuit court.⁴ The county auditor is clerk of the county council; and his duties as such may be performed by himself personally or by deputy.⁵ At an organization meeting held

¹ Acts 1899; Burns 26-501; Baldwin 5365.

² Const., art. 15, sec. 3. Acts 1899, 1907; Burns 26-502, 26-505; Baldwin 5366, 5369.

³ Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

⁴ Acts 1899; Burns 26-548.

⁵ Acts 1899; Burns 26-509; Baldwin 5373.

on the second Saturday after its election, the council chooses from its members a presiding officer and a presiding officer pro tem, who serve for the terms of their respective offices as councilmen.⁶

Each councilman must have been an inhabitant of the county during one year next preceding the date of his election or appointment. Each councilman at large must be a qualified voter and resident freeholder of the county; and each of the other councilmen must be a qualified voter and resident freeholder of the district from which he was elected or appointed. No person can hold the office of councilman while holding any other county office or while holding any state, township, or municipal office.⁷ Each councilman, before entering on the duties of his office, must take an oath that he will support the state and federal constitutions and that he will faithfully and honestly perform his duties as councilman.⁸

Each councilman receives a salary of \$15 per year plus \$10 for each day served at special meetings of the council.⁹ Before 1927 there was no additional compensation for serving at special meetings.¹⁰ From 1899 until 1933 the auditor was entitled to a suitable annual allowance by the county council in an amount not less than \$200 nor more than \$600 (in addition to his regular salary), for his services as clerk of the county council; but since 1933 his annual salary of \$4,240 has been compensation for his regular duties and also his duties as clerk of the county council.¹¹

For sufficient legal grounds any councilman may be removed by the circuit court or the superior court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.¹² If any councilman is convicted

⁶ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

⁷ Const., art. 2, sec. 9; art. 6, secs. 4, 6. Acts 1899; Burns 26-504; Baldwin 5368. *State ex rel. Workman v. Goldthait* (1909), 172 Ind. 210, 87 N. E. 133.

⁸ Const., art. 15, sec. 4. Acts 1899; Burns 26-506; Baldwin 5370. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1899, 1927; Burns 26-503; Baldwin 5267.

¹⁰ Acts 1899, ch. 154, secs. 3.

¹¹ Acts 1899; Burns 26-509, 26-550; Baldwin 5373, 5221. Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

¹² Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-203; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1899; Burns 26-504; Baldwin 5368. Acts 1897, 1899; Burns 49-821 to 49-824, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

of a felony the judgment of conviction must declare his office vacant.¹³ The county council has the power to expel any councilman for disability, ineligibility, neglect to perform the duties of his office, or violation of official duties; and no law specifically provides for a review of such expulsion.¹⁴ Any vacancy in the membership of the council is filled by appointment by the remaining members of the council at a special meeting held for that purpose. A person appointed to fill such vacancy holds office until the expiration of the term in which such vacancy occurred and until his successor is elected and qualified.¹⁵

The purpose of the general assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.¹⁶ Before 1899 the board of commissioners performed the duties now performed by the council.¹⁷

The county council makes appropriations of money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates,¹⁸ authorizes the borrowing of money for the county,¹⁹ authorizes the county to purchase, sell, or convey real estate of the value of \$1,000 or more,²⁰ and fixes the amounts of salaries of deputy officers and other assistants of county officers.²¹ In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.²² Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Acts 1899; Burns 26-504, 26-512; Baldwin 5368, 5376.

¹⁵ Const., art. 15, sec. 3. Acts 1899, 1907; Burns 26-505; Baldwin 5369.

¹⁶ Acts 1899; Burns 26-529; Baldwin 5393. *Snider v. State ex rel. Leap* (1934), 206 Ind. 474, 190 N. E. 173.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

¹⁸ Acts 1899, 1931; Burns 26-507, 26-515, 26-520; Baldwin 5371, 5379, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

¹⁹ Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

²⁰ Acts 1899; Burns 26-534; Baldwin 5399. Acts 1903; Burns 22-3201; Baldwin 4507.

²¹ Acts 1933, 1935; Burns, 1939 suppl., 49-1002; Baldwin 1935 suppl., 7532.

²² Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

or the state board of tax commissioners.²³ In mandamus proceedings, the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact the condition has been performed.²⁴ The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the state board of tax commissioners; and no bonds or notes bearing interest greater than five percent per annum can be issued without the approval of said board.²⁵

The county council and the board of commissioners, acting together, approve the acceptance of lands given or devised to the county for purposes of a public forest;²⁶ hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court or the superior court;²⁷ determine, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;²⁸ and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.²⁹

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase, for less than par, any bond, warrant, claim, or demand against the county.³⁰

The county council holds a regular annual meeting on the first Tuesday after the first Monday of September of each year. Special meetings may be called by the auditor or a

²³ Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

²⁴ Acts 1899; Burns 26-528; Baldwin 5392. State *ex rel.* Simpson v. Meeker (1914), 182 Ind. 240, 105 N. E. 906; State *ex rel.* Test v. Steinwedel (1932), 203 Ind. 457, 180 N. E. 865; Blue v. State *ex rel.* Powell (1936), 210 Ind. 486, 1 N. E. (2d) 122.

²⁵ Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736. Citizens Bank v. Burnettsville (1932), 98 Ind. App. 192, 179 N. E. 724.

²⁶ Acts 1939; Burns 32-105; Baldwin 4879.

²⁷ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

²⁸ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

²⁹ Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

³⁰ Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

majority of the members of the council.³¹ The sessions are open to the public and may continue until all business is completed.³² A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.³³ A greater vote is required in order to expel a member (two-thirds),³⁴ adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),³⁵ adopt appropriations at a special meeting (two-thirds),³⁶ and to levy taxes for the repair, maintenance, or preservation of county highways (unanimous).³⁷ The sheriff, in person or by deputy, attends the sessions of the council and executes its orders.³⁸

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.³⁹ He keeps separate accounts for each specific item of appropriation made by the council.⁴⁰

31. COUNTY COUNCIL RECORD, 1899-. 2 vols. (1,2).

Minutes of meetings and proceedings of county council, showing date of meeting, names of members present, nature of business discussed, and action taken. Also contains: [Minutes of Tax Adjustment Board], 1933-, entry 227. Arr. chron. by dates of meetings. No index. 1899-1912, hdw.; 1913-, typed. 580 pp. 18 x 12 x 3. Aud. rec. rm. 1.

32. COUNTY COUNCIL [Documents], 1899-. 6 f. b.

Original documents filed for action by county council, showing dates of document and filing, nature of action, and names of principals. Arr. chron. by dates of filing. No index. Hdw. and typed. 10 x 5 x 14. Aud. rec. rm. 1.

³¹ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

³² Acts 1899; Burns 26-508; Baldwin 5372.

³³ Acts 1899; Burns 26-511; Baldwin 5375.

³⁴ Acts 1899; Burns 26-512; Baldwin 5376.

³⁵ Acts 1899; Burns 26-520; Baldwin 5384.

³⁶ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

³⁷ Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

³⁸ Acts 1899; Burns 26-510; Baldwin 5374.

³⁹ Acts 1899; Burns 26-509; Baldwin 5373. State *ex rel.* Van Der Veer v. Butcher (1933),

205 Ind. 117, 185 N. E. 908.

⁴⁰ Acts 1899; Burns 26-523; Baldwin 5387.

III. CLERK OF THE CIRCUIT COURT

The clerk of the circuit court, commonly referred to as "county clerk", is a constitutional officer, elected for a four-year term by the voters of the county. The office was created by the Constitution of 1816 and re-created by the Constitution of 1851. Under the Constitution of 1816, the clerk was elected for a seven-year term by the voters of the county.¹ He is commissioned by the governor,² and holds office until his successor is elected and qualified.³ No person is eligible to the office for more than eight years in any 12 year period.⁴ The clerk must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;⁵ and, while holding said office, he must reside within the county, must not hold any other lucrative office,⁶ and must not practice law.⁷ Under the Constitution of 1816, the offices of recorder and clerk of the circuit court could be held simultaneously by one person.⁸ He must post bond in the amount fixed by the board of commissioners, approved by that board and filed with the recorder,⁹ and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.¹⁰

The clerk of the circuit court receives a regular salary of \$3,920 per year.¹¹ He receives \$200 for his services

¹ Const., 1816, art. 5, sec. 8. Const., art. 6, sec. 2. Acts 1816-17, ch. 14, sec. 1. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427.

² Const. 1816, art. 11, sec. 9. Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const., art. 15, sec. 3.

⁴ *Ibid.*, art. 6, sec. 2.

⁵ Const. 1816, art. 11, sec. 14. Const., art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const., art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

⁸ Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

⁹ Rev. Stat. 1838, ch. 15, sec. 1; ch. 17, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-106, 49-120; Baldwin 13066, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427. Acts 1875; Burns 49-2703, 49-2704; Baldwin 1430, 1431.

¹⁰ Const. art. 15, sec. 4. Acts 1816-17, ch. 2, sec. 4. Rev. Laws 1831, ch. 15, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹¹ Acts 1933; Burns 49-1004; Baldwin 7534.

rendered at each general election, primary election, or special election.¹² For each registration blank or transfer of registration which he fills out and executes, he receives a sum fixed by the board of commissioners in an amount not more than four cents, and in addition thereto receives reasonable compensation (fixed by the board of commissioners) for the additional services rendered by him as registration officer.¹³ He is not permitted to retain, as compensation for himself, any fees collected by him, except to the extent expressly authorized by statute in the following cases: Five cents for each mile necessarily travelled in going from the clerk's office to the office of the governor, to receive state ballots, and in returning to the clerk's office; \$5 for his duties in connection with the admission or discharge of any person at any hospital for the insane, the Fort Wayne State School, the Muscatatuck Colony, the Indiana Village for Epileptics, or the James Whitcomb Riley Hospital for Children; fees for the issuance of fish and game licenses; fees for preparing transcripts for change of venue from his county; and all fees for change of venue to his county, except preparation of transcripts.¹⁴

For sufficient legal grounds the clerk of the circuit court may be removed from office by the circuit court or superior court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹⁵ If the clerk is convicted of a felony the judgment of conviction must declare his office vacant.¹⁶

Any vacancy in the office of clerk of the circuit court is filled by appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a clerk is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected

¹² Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

¹³ Acts 1933, 1935; Burns, 1939 suppl., 29-329; Baldwin, 1935 suppl., 7327.

¹⁴ Acts 1841-42 (general), ch. 119, sec. 1. Acts 1933; Burns 49-1001, 49-1005, 49-1007; Baldwin 7531, 7535, 7537. Acts 1933, 1937; Burns, 1939 suppl., 49-1007; Baldwin, 1937 suppl., 7537. Acts 1927; Burns 49-1301 to 49-1305; Baldwin 7561 to 7565.

¹⁵ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁷

The clerk of the circuit court may appoint two deputies without the approval of the board of commissioners, and may appoint additional deputies and assistants with such approval. The county council fixes the salaries of such deputies and assistants, and the salary of each must be not less than \$75 and not more than \$200 per month.¹⁸ The clerk may require any deputy to give bond.¹⁹ The deputies must take the oath required of the clerk, may perform all the official duties of the clerk, and are subject to the same regulations and penalties.²⁰ The clerk may remove such deputies and assistants at any time, and is responsible for their official acts.²¹

As an officer of the circuit court, the clerk performs numerous duties. He, in person or by deputy, attends the circuit court and performs the customary duties of clerk at trials;²² files pleadings and papers and endorses thereon the time of such filing;²³ issues summonses,²⁴ letters testamentary,²⁵ letters of administration,²⁶ notices for service by publication,²⁷ attachment writs,²⁸ garnishment writs,²⁹

¹⁷ Const., art. 6, sec. 9. Rev. Laws 1824, ch. 36, sec. 1. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁸ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

¹⁹ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

²⁰ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

²¹ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

²³ Acts 1816-17, ch. 4, sec. 28. Rev. Stat. 1843, ch. 33, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

²⁴ Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

²⁵ Acts 1881 (Spec. Sess.); Burns 6-201; Baldwin 3025.

²⁶ Acts 1881 (Spec. Sess.), 1901; Burns 6-301; Baldwin 3030.

²⁷ Acts 1881 (Spec. Sess.), 1385, 1935; Burns, 1939 suppl., 2-807; Baldwin, 1935 suppl., 88.

²⁸ Rev. Laws 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

²⁹ Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

executions,⁸⁰ and witness subpoenas;⁸¹ administers oaths;⁸² takes depositions of witnesses;⁸³ keeps court dockets,⁸⁴ inheritance-tax records,⁸⁵ probate records,⁸⁶ receivership records,⁸⁷ guardianship records,⁸⁸ and records of redemption from judicial sales;⁸⁹ records orders, judgments,⁴⁰ indictments,⁴¹ notices of lis pendens,⁴² and probated wills;⁴³ draws up a record of the proceedings of the court daily;⁴⁴ enters in a final record book a complete record of causes finally determined;⁴⁵ prepares and certifies transcripts of proceedings for change of venue from the county⁴⁶ or for appeal to a higher

⁸⁰ Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524.

⁸¹ Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

⁸² Acts 1818-19, ch. 17, sec. 1. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

⁸³ Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

⁸⁴ Acts 1814, ch. 13, sec. 5. Acts 1816-17, ch. 4, secs. 11, 12, 28, 32. Rev. Laws 1824, ch. 74, sec. 15. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 358. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-3226; Baldwin 500.

⁸⁵ Acts 1913, ch. 47, secs. 17, 18. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

⁸⁶ Acts 1817-18, ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

⁸⁷ Acts 1911; Burns 3-2607; Baldwin 1147.

⁸⁸ Acts 1846-47 (general), ch. 54, sec. 1. Acts 1889; Burns 8-137; Baldwin 3424.

⁸⁹ Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

⁴⁰ Acts 1814, ch. 13, sec. 4. Rev. Laws 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410; Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁴¹ 2 Rev. Stat. 1852, pt. 3, ch. 1, sec. 68 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

⁴² Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97 to 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1.

⁴³ Domestic probate. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3385.

Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

⁴⁴ Acts 1814, ch. 20, sec. 11. Rev. Laws 1824, ch. 74, sec. 54. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413.

⁴⁵ Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁴⁶ Acts 1813-14, ch. 37, secs. 1, 2. Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.);

court;⁴⁷ and receives payments for all judgments of record in his office.⁴⁸ He is ex officio clerk of the superior court and performs therein duties similar to his duties in the circuit court.⁴⁹ From 1829 until 1853, he was ex officio clerk of the probate court of the county (abolished in 1853);⁵⁰ and from 1853 until 1873, he was ex officio clerk of the common pleas court of the county (abolished in 1873).⁵¹ He prepares budget estimates for the circuit court and superior court.⁵²

The clerk issues licenses for marriages,⁵³ physicians, surgeons,⁵⁴ midwives,⁵⁵ osteopaths,⁵⁶ chiropractors, drugless healers,⁵⁷ dentists,⁵⁸ optometrists,⁵⁹ hunting, trapping, fishing,⁶⁰ poultry dealers,⁶¹ and junk dealers.⁶² He approves (unless other provision is made by law), files, and keeps a record of the bonds of county officers (except his own and

Burns 2-1406; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226.

Fees on change of venue and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Opinions of the Attorney General of Indiana, 1934*, p. 128.

⁴⁷ Acts 1903, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 455. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

⁴⁸ Acts 1875; Burns 49-2719; Baldwin 1438.

⁴⁹ Acts 1929; Burns 4-705; Baldwin 1476.

⁵⁰ Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

⁵¹ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

⁵² Acts 1899; Burns 26-516; Baldwin 5380.

⁵³ Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852; Burns 44-201; Baldwin 5622.

⁵⁴ Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

⁵⁵ Acts 1897; Burns 63-1309; Baldwin 10709.

⁵⁶ Acts 1901; Burns 63-1316; Baldwin 10716.

⁵⁷ Acts 1927; Burns 63-1312; Baldwin 10713.

⁵⁸ Acts 1899, ch. 211, secs. 5, 7 to 11. Acts 1913, 1931, 1935; Burns, 1929 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

⁵⁹ Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1939 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

⁶⁰ Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the Acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

⁶¹ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

⁶² Acts 1905; Burns 42-703; Baldwin 10462.

the bonds of the county assessor and county superintendent of schools), township officers,⁶³ and notaries public.⁶⁴ He records timber brands,⁶⁵ certificates of patents granted by the United States Patent Office,⁶⁶ assumed business names,⁶⁷ trade marks and trade names used on bottles and other containers,⁶⁸ inventories and accounts of trustees,⁶⁹ appointments of railroad agents for service of process,⁷⁰ and termination of authority of railroad policemen.⁷¹ He records marriage licenses, the application therefor, and certificates of marriages;⁷² and makes monthly reports to the county health officer concerning marriages for the preceding month.⁷³ He registers certificates of trained nurses,⁷⁴ and keeps a register of estrays and articles adrift.⁷⁵ Formerly he issued liquor licenses,⁷⁶ brokers' licenses,⁷⁷ firearms permits,⁷⁸ licenses for veterinarians,⁷⁹ stallions,⁸⁰ and petty money

⁶³ Acts 1816-17, ch. 2, sec. 3; ch. 13, sec. 3. Acts 1818-19, ch. 2, sec. 1. Rev. Laws 1824, ch. 13, sec. 2. Rev. Laws 1831, ch. 15, sec. 7; ch. 20, sec. 23. Acts 1833-34, ch. 16, sec. 1. Rev. Stat. 1843, ch. 4, secs. 84, 86, 89; ch. 10, sec. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-105; Baldwin 13063. Acts 1889; Burns 49-109; Baldwin 13064. Acts 1857; Burns 49-124; Baldwin 13077. Acts 1857; Burns 49-125; Baldwin 16118. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁶⁴ 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

⁶⁵ Acts 1901; Burns 51-338; Baldwin 13265.

⁶⁶ Acts 1869 (Spec. Sess.), 1899; Burns 51-401; Baldwin 2772.

⁶⁷ Acts 1909; Burns 50-201, 50-202; Baldwin 13210, 13211.

⁶⁸ Acts 1897, ch. 192, sec. 1. Acts 1917, 1931; Burns 66-101; Baldwin 16179.

⁶⁹ Acts 1937; Burns, 1939 suppl., 6-2514; Baldwin, 1937 suppl., 3221-14.

⁷⁰ Acts 1877 (Spec. Sess.); Burns 55-3301 to 55-3303; Baldwin 14329 to 14331.

⁷¹ Acts 1927; Burns 55-3408; Baldwin 14654.

⁷² Rev. Stat. 1838, ch. 68, sec. 6. 1 Rev. Stat. 1852; Burns 44-203; Baldwin 5624. Acts 1905, 1917; Burns 44-205; Baldwin 5625.

⁷³ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

⁷⁴ Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

⁷⁵ Rev. Laws 1824, ch. 39, sec. 2. 1 Rev. Stat. 1852; Burns 51-306, 51-315; Baldwin 13233, 13243.

⁷⁶ Acts 1820-21, ch. 36, secs. 1, 2. Pharmacists' liquor licenses. Acts 1917, ch. 4, secs. 6, 12.

⁷⁷ Acts 1840-41 (general), ch. 5, sec. 18.

⁷⁸ Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21).

⁷⁹ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

⁸⁰ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28 creating the stallion enrollment board).

lenders,⁸¹ and kept a register of certificates of agents of foreign insurance companies.⁸²

Formerly the clerk kept a negro register,⁸³ a roll of attorneys of the county,⁸⁴ lists of shareholders of banks of the county,⁸⁵ lists of lands purchasable at all land offices in the state,⁸⁶ plats showing changes in routes of roads and canals,⁸⁷ and a record of roads and objects connected therewith;⁸⁸ filed bounty certificates⁸⁹ and enumeration of soldiers and sailors;⁹⁰ and recorded limited partnerships.⁹¹

The clerk serves ex officio as registration officer for the county⁹² and as a member of the county election boards⁹³ and the county school fund board.⁹⁴

Formerly the auditor, recorder, and clerk of the circuit court had charge of the county library, and constituted a board of trustees for that purpose. The board was authorized to elect one of its members treasurer, appoint a librarian, expend money appropriated for the library, and make loans of the surplus library fund, and was required to make an annual report to the board of commissioners.⁹⁵ The county library has been discontinued.⁹⁶

⁸¹ Acts 1913, ch. 167, secs. 1 to 4 (repealed by Acts 1917, ch. 125, sec. 6).

⁸² Acts 1901, ch. 180, sec. 1 (repealed by Acts 1935, ch. 162, sec. 276). Acts 1903, ch. 66, sec. 1 (repealed by Acts 1935, ch. 162, sec. 276). Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567 (repealed by Acts 1935, ch. 162, sec. 276).

⁸³ 1 Rev. Stat. 1852, ch. 74, sec. 3 (repealed by Acts 1867, ch. 128, sec. 1).

⁸⁴ Rev. Stat. 1843, ch. 38, sec. 93.

⁸⁵ 1 Rev. Stat. 1852, ch. 10, sec. 30.

⁸⁶ Acts 1825, ch. 47, sec. 2. Rev. Stat. 1838, ch. 10, secs. 6, 7.

⁸⁷ Rev. Stat. 1838, ch. 17, sec. 56.

⁸⁸ Acts 1815, ch. 5, sec. 19.

⁸⁹ Acts 1816-17, ch. 23, sec. 3.

⁹⁰ Acts 1885 (Spec. Sess.), ch. 97, secs. 1, 3 (both repealed by Acts 1895, ch. 100, sec. 1).

Acts 1913, ch. 46, secs. 1, 2 (both repealed by Acts 1923, ch. 4, sec. 1).

⁹¹ Rev. Stat. 1838, ch. 73, secs. 5-7.

⁹² Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304. See the essay entitled "Registration Officer."

⁹³ See the essays entitled "Board of Primary Election Commissioners", "County Board of Election Commissioners", and "County Board of Canvassers."

⁹⁴ See the essay entitled "County School Fund Board."

⁹⁵ Acts 1816-17, ch. 23; ch. 44, sec. 6. Rev. Laws 1824, ch. 60, sec. 9. Rev. Laws 1831, ch. 59, secs. 3, 9, 10. 1 Rev. Stat. 1852; Burns 41-503. Acts 1861; Burns 41-507. Traylor v. Dykins (1883), 91 Ind. 229.

⁹⁶ Commissioners' Record, 6:426. *Muncie Evening Press*, June 10, 1935.

Before the creation of the office of county auditor in 1841,⁹⁷ the clerk performed the following duties which were transferred to the auditor⁹⁸ in 1841 or soon thereafter: As clerk of the board of commissioners,⁹⁹ as member of boards performing duties like those of the present county board of review,¹⁰⁰ and duties concerning taxation, finance, county business,¹⁰¹ elections,¹⁰² and empanelling of petit jurors and grand jurors.¹⁰³

Formerly when there was an enumeration of white male inhabitants over the age of 21 years, lists showing such enumeration were delivered to and kept by the clerk, and the clerk certified to the auditor of state the results of such enumeration.¹⁰⁴ Since 1845 the auditor has performed these duties,¹⁰⁵ to which was added in 1877 the enumeration of colored males over the age of 21 years.¹⁰⁶

Formerly the clerk of the circuit court was required to perform the duties of the office of school commissioner if there was no school commissioner.¹⁰⁷

⁹⁷ Acts 1840-41 (general), ch. 2, sec. 1.

⁹⁸ Jones v. Cavins (1853), 4 Ind. 305.

⁹⁹ Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

¹⁰⁰ Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15.

¹⁰¹ Acts 1807, ch. 52, sec. 1. Acts 1811, ch. 37, secs. 3, 5. Acts 1813, ch. 8, sec. 6. Acts 1813-14, ch. 32, secs. 2, 3. Rev. Laws 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 29, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 174, sec. 1. Acts 1834-35 (general), ch. 10, sec. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

¹⁰² Acts 1834-35 (general), ch. 43, sec. 1. Rev. Stat. 1838, ch. 32, secs. 18, 19; ch. 91, sec. 26. Acts 1841-42 (general), ch. 45, sec. 8. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

¹⁰³ Acts 1841-42 (general), ch. 45, secs. 5, 6. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1. Acts 1853, ch. 59, sec. 1.

These duties of the auditor were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

¹⁰⁴ Acts 1825, ch. 21, sec. 1. Acts 1829-30, ch. 9, secs. 1, 5. Acts 1834-35 (general), ch. 10, sec. 5. Acts 1839-40 (general), ch. 15, sec. 5.

¹⁰⁵ Acts 1844-45 (general), ch. 29, secs. 2, 3, 5. Acts 1853, ch. 41, secs. 1-3. Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605, 65-610, 65-611, 65-614; Baldwin 7490 to 7494, 7499, 7500, 7503.

¹⁰⁶ Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

¹⁰⁷ Acts 1836-37 (general), ch. 21, sec. 1.

All funds received by the clerk must be deposited in a depository designated by the board of finance, and may be withdrawn by checks signed by the clerk or his authorized deputy.¹⁰⁸ He reports to the county auditor and treasurer all fees and fines collected by him.¹⁰⁹ All money remaining in the office of the clerk for 10 years without being demanded by the party entitled thereto is paid to the attorney general.¹¹⁰

The clerk keeps a cashbook,¹¹¹ a daily balance record,¹¹² and a register of fees received by him;¹¹³ and must preserve in his office all records and writings appertaining to his official duties.¹¹⁴

The state board of accounts (created in 1909) prescribes the forms of books, reports, accounts, and records for the use or disposition of all clerks of circuit courts concerning the accounting for public funds.¹¹⁵

Forms for the following books were prescribed for clerks of circuit courts by the state board of accounts: Cashbook of receipts and disbursements; daily balance record; entry and issue docket and fee book; estate entry claim and allowance docket and fee book; guardianship docket and fee book; register of fees and funds held in trust; support docket; index and record of receiverships; judgment docket; record of poultry dealers' licenses and applications therefor. Said board has prescribed forms of blanks for report of fines and forfeitures collected, poultry dealer's license, and application for such license.¹¹⁶

¹⁰⁸ Acts 1937; Burns, 1939 suppl., 61-673, 61-674; Baldwin, 1937 suppl., 1438-1, 1438-2.

¹⁰⁹ Acts 1828-29, ch. 24, secs. 1, 2. Rev. Laws 1831, ch. 15, sec. 15. Acts 1841-42 (general), ch. 45, sec. 3. Rev. Stat. 1843, ch. 13, sec. 80; ch. 38, sec. 64. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

¹¹⁰ Acts 1933; Burns 49-2717, 49-2718; Baldwin 15177, 15178.

¹¹¹ Acts 1879 (Spec. Sess.); Burns 49-2722; Baldwin 1442.

¹¹² Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

¹¹³ Acts 1909, ch. 10, sec. 1. Acts 1927; Burns 49-1301; Baldwin 7561. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443.

Probate feebook. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

¹¹⁴ Acts 1829-30, ch. 10, sec. 1. Rev. Stat. 1843, ch. 38, sec. 50. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹¹⁵ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 13, 1939 with E. P. Brennan, state examiner.

¹¹⁶ Interview of May 18, 1939 with E. P. Brennan, state examiner.

The books and accounts of the clerk are examined, from time to time without notice, by the state examiner. Before the creation of the office of state examiner in 1909, the judge of the circuit court examined the clerk's office on the first day of every term of such court, and reported in writing to the board of commissioners showing the manner in which the books and papers of the clerk's office were kept.¹¹⁷

OFFICIAL BONDS

(See also entry 310)

33. MISCELLANEOUS BOND RECORD, 1834-73, 1882-. 10 vols. (1 vol. not labelled, A, 1, 1-7). Title varies: Official Bond Record, 1834-73, 3 vols.

Record of official and miscellaneous bonds, including trustees, appeal, cost, attachment, undertakers, appearance, and commissioners' bonds to sell real estate, showing dates of bond and termination, names of principal and sureties, and purpose, amount and conditions of bond. Also contains: Notaries' Bond Record, 1834-73, 1882-Mar. 1884, entry 36; Justice's and Constable's Bonds, 1834-73, 1882-97, entry 38; Recognizance Bond Record, 1834-73, entry 153. Arr. chron. by dates of bonds. Indexed alph. by names of principals; for separate index, 1889-1903, see entry 34. 1834-73, 1882-1915, hdw.; 1916-, typed. 600 pp. 18 x 12 x 4. 6 vols., 1834-73, 1916-, clk. rec. rm. 1; 4 vols., 1882-1915, clk. vt.

34. OFFICIAL BOND INDEX RECORD, 1889-June 1903. 2 vols. (2,4).

Partial index to Miscellaneous Bond Record, entry 33, showing date, amount and kind of bond, names of principal and sureties, and volume and page reference to recording. Arr. alph. by names of principals. Hdw. 150 pp. 18 x 12 x 2. 1 vol., 1889-Aug. 1900, attic stor. rm. 6; 1 vol. Sept. 1900-1903, attic stor. rm. 5.

35. [OFFICIAL BONDS], 1827-1906. 4 cartons. 1907- in [Clerk's Miscellaneous Papers], entry 44.

Original bonds posted by county officials to insure faithful performance of duty, showing dates of bond and filing, names of official and sureties, and amount and conditions of bond. Also contains: [Notary Bonds], 1834-1906, entry 37. Arr. chron. by dates of filing. No index. Hdw. 10 x 5 x 24. Attic stor. rm. 3.

¹¹⁷ 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439. Acts 1909, 1915; Burns 60-201, 60-211; Baldwin 13854, 13862.

36. NOTARIES' BOND RECORD, Apr. 1884-. 7 vols. (1-7). 1884-73, 1882-Mar. 1884 in Miscellaneous Bond Record, entry 33.

Record of bonds posted by notaries public to insure faithful performance of duties, showing dates of recording, termination and approval of bond, names of notary, surety and witnesses, and amount of bond. Arr. chron. by dates of recording. Indexed alph. by names of notaries. Hdw. 900 pp. 18 x 12 x 4. 3 vols., 1884-1914, clk. vt.; 4 vols., 1915-, clk. rec. rm. 1.

37. [NOTARY BONDS], 1916-24. 2 f.b. 1884-1906 in [Official Bonds], entry 35; 1907-15, 1925- in [Clerk's Miscellaneous Papers], entry 44.

Original bonds posted by notaries public, showing dates of bond, oath and filing, names of notary and sureties, and amount and conditions of bond. Arr. chron. by dates of filing. No index. Typed. 10 x 5 x 14. Clk. rec. rm. 1.

38. JUSTICE'S AND CONSTABLE'S BONDS, 1898-. 1 vol. 1884-73, 1882-97 in Miscellaneous Bond Record, entry 33.

Record of bonds and oaths of justices and constables, showing dates of bond, commission, approval and oath, names of official surety and clerk, and amount and conditions of bond. Arr. alph. by names of officials. No index. Hdw. 320 pp. 17 x 14 x 2. Clk. rec. rm. 1.

39. [MISCELLANEOUS BONDS AND COURT DOCUMENTS], 1860-. 12 cartons, 1 f. b.

Miscellaneous bonds and court documents filed with clerk, including:

- i. Justice of peace and constable bonds posted to insure faithful performance of duties, 1895-, showing dates of bond, filing and approval, names of official and sureties, and amount and conditions of bond.
- ii. Receivers' bonds, showing dates of bond, filing and approval, names of principal and sureties, and number, amount and conditions of bond.
- iii. Recognizance bonds, showing dates of bond, filing, appearance and approval, names of defendant and sureties, nature of charge, and number, amount and conditions of bond.
- iv. Petitions and commissioners' bonds to sell real estate, 1895-, showing dates of bond, filing and approval, names of principal and sureties, and number, amount and conditions of bond.

- v. Attachment bonds, executed for levy or attachment of property to satisfy judgments, 1865-, showing dates of bond, filing and approval, and names of principal and sureties.
 - vi. Appeal bonds posted to insure payment of costs, showing dates of bond, filing and approval, number, amount and conditions of bond, and names of defendant and sureties.
 - vii. Cost bonds assuring plaintiff will pay all costs, 1895-, showing dates of bond, filing and approval, names of plaintiff and sureties, and number and conditions of bond.
 - viii. Requests and examinations of attorneys on motions for admittance to bar, showing date of filing, names of attorney and examining committee, and committee's report.
 - ix. Venire for jurors to serve and lists of persons drawn for jury service in civil and criminal causes, showing dates of issue and filing, term of court, and names and addresses of eligible persons.
 - x. Subpoenas issued for appearance of persons before grand jury, 1873-, showing dates of issue, appearance and filing, and name of person subpoenaed.
 - xi. Motions for appeal of causes to supreme court, 1890-, showing dates of issue and filing, cause number, and names of plaintiff, defendant and court appealed from.
 - xii. Decisions of supreme court in causes appealed from Delaware County courts, 1890-, showing dates of decision and filing, names of plaintiff and defendant, number and nature of cause, and decision of court.
 - xiii. Allowances for services rendered for circuit and superior courts, 1862-, showing dates of service, allowance and filing, names of payee and court, itemized list of allowances, and total.
- Arr. chron. by dates of filing. No index. Hdw. 10 x 5 x 24. 7 cartons, 1860-1925, attic stor. rm. 3; 5 cartons, 1 f. b., 1926-, clk. rec. rm. 1.

LICENSES AND CERTIFICATES

MARRIAGE (see also entry 351)

40. MARRIAGE RECORD, 1827-. 50 vols. (1-50).

Record of issuance of licenses and certificate of returns of

marriage, showing dates of license and return, names of bride, groom, and official performing ceremony. Also contains: Marriage Application Record, 1912-, entry 42; Marriage Affidavit Record, 1909-, entry 43. Arr. chron. by dates of licenses. Indexed alph. by names of brides and grooms. Hdw. 600 pp. 22 x 14 x 4. 48 vols., 1827-Oct. 9, 1937, clk. vt.; 2 vols., Oct. 10, 1937-, clk. off.

41. MARRIAGE LICENSE, 1827-. 7 cartons, 7 f. b. Title varies: Marriage Returns, 1837-1935, 7 cartons. Certified copies of marriage licenses issued by clerk with original certificates of return attached, showing dates of license, return and marriage, and names of bride, groom and official performing ceremony. Arr. chron. by dates of filing. No index. Hdw. Cartons, 5 x 10 x 24; f. b., 10 x 5 x 14. 7 cartons, 1837-1935, pub. welf. off.; 7 f. b., 1936-, clk. rec. rm. 1.

42. MARRIAGE APPLICATION RECORD, 1905-11. 7 vols. (1-7). 1912-in Marriage Record, entry 40.

Record of applications for marriage licenses, showing date of application, names, ages, addresses, occupations, and family histories of bride, groom and parents, and affidavit of witness. Arr. chron. by dates of applications. Indexed alph. by names of brides and grooms. Hdw. 500 pp. 18 x 15 x 3. Clk. rec. rm. 2.

43. MARRIAGE AFFIDAVIT RECORD, 1868-1908. 6 vols. (1-6). 1909-in Marriage Record, entry 40.

Record of affidavits of witnesses as to ages of bride and groom and affidavits of bride and groom that they have no more than one-eighth negro blood, showing date of affidavit, and names of bride, groom and witnesses. Arr. chron. by dates of affidavits. Indexed alph. by names of grooms. Hdw. 580 pp. 18 x 15 x 3. Clk. rec. rm. 2.

For original affidavits 1905-11, see entry 44i.

PHYSICIANS

44. [CLERK'S MISCELLANEOUS PAPERS], 1867-. 18 cartons, 7 f. b. (dated).

Miscellaneous instruments filed with clerk, including:

- i. Marriage affidavits as to lawful ages of applicants for marriage licenses, 1905-11, showing dates of affidavit and filing, and signature of applicant and witnesses.

For record of affidavits 1905-8, see entry 43; 1909-11, entry 40.

- ii. Nurses, certificates issued by state board of examination and registration filed with clerk by nurses practicing in county, 1905-, showing dates of certificate and filing, certificate number, and name and address of nurse.

For register of trained nurses, see entry 50.

- iii. Junk dealers' applications for licenses to buy and sell junk, 1905-, showing dates of application, filing and expiration of license, and name and business address of dealer.

For record of licenses, see entry 53.

- iv. Poultry dealers' applications for license to deal in poultry, 1917-, showing dates of application and filing, and name and business address of dealer.

For record of applications, see entry 54.

- v. Applications to receive, possess and sell, and bonds posted to deal in pure grain alcohol and intoxicating liquors, 1918-19, showing dates of application, bond and filing, name and address of applicant, nature of business, and amount of stock other than liquors.

For record of applications and bonds, see entry 57.

- vi. Dealers' reports of firearm sales, 1931-, showing dates of sale and report, name of dealer, name, address and personal description of purchaser, description of firearm, and manufacturer's serial number.

- vii. Certificates of firms or partnerships engaged in business under names other than their own, 1910-, showing dates of certificate and filing, name and location of company, kind of business, and names and addresses of principals.

For record of certificates, see entry 63.

- viii. Certificates of authorization for foreign corporations to operate in Delaware County, 1867-1921, showing dates of certificate and filing, name of corporation, nature of business, and local and foreign addresses.

- ix. Authorizations of powers of attorney executed to authorize agents to act in specific duties, 1890-, showing dates of instrument and filing, names of principal and agent, and term and condition of authorization.

- x. Affidavits filed for registration of trade marks by companies or individuals, 1931-, showing date of filing, name and description of trade mark, kind of business, and names of company, principals and attorney.

Also contains: [Official Bonds], 1907-, entry 35; [Notary Bonds], 1907-15, 1925-, entry 37; Gun Permits, [Applications] 1931-34, entry 59; [Income Tax Warrants], 1934-, entry 147; [Receipts for Change of Venue], 1931-, entry 189; [List of Deceased Voters], 1937-, entry 321; [Declaration of Candidates], 1936-, entry 326; [Candidates' Expenses, Primary Election], 1916-, entry 327; [Recap and Canvassers' Sheets], 1932-, entry 328; [Candidates' Expenses, General Election], 1904-, entry 332. Arr. chron. by dates of filing. No index. Cartons, 5 x 10 x 24; f. b., 10 x 5 x 14. 8 cartons, 1867-1930, attic stor. rm. 3; 10 cartons, 7 f. b., 1905-, clk. rec. rm. 1.

45. [REGISTER OF PHYSICIANS AND ACCOUCHERS], 1881-Feb. 22, 1897. 2 vols.

Register of physicians and accouchers practicing in county, showing date of registration, name and address of physician or accoucher, kind and location of school attended, and date of graduation. Arr. alph. by names of physicians or accouchers. No index. Hdw. 132 pp. 13 x 9 x 1. Clk. rec. rm. 1.

46. PHYSICIANS' CERTIFICATE RECORD, 1885-. 4 vols. (1, 1 not labelled, 1, 2). Title varies: Physicians' License Record, 1885-Apr. 1920, 2 vols.

Record of physicians' applications, affidavits, certificates and licenses, and original certificates, including:

- i. Record of applications and affidavits for physicians' licenses, 1885-96, showing dates of application, affidavit and graduation, names of physician, affiants and college attended, and place and duration of prior practice. Arr. chron. by dates of applications.

For original applications and affidavits, see entry 47i.

- ii. Record of certificates issued by state board of medical registration and examination, 1897-1912, showing date and number of certificate, name, address, nationality, age and birthplace of physician, system of practice, and name and location of college attended. Arr. chron. by dates of certificates.

- iii. Record of licenses issued, showing date and number of license, name of physician, and system of practice. Arr. chron. by dates of licenses.
- iv. Original certificates issued by state board of medical registration and examination and pasted in volume, 1913-, showing same information as in paragraph ii. Arr. chron. by dates of certificates.

For original certificates, 1897-1912, see entry 47ii.

Indexed alph. by names of physicians. Hdw. 300 pp. 18 x 14 x 3. Clk. rec. rm. 1.

47. PHYSICIANS' APP[lications] AND AFF[idavits] FOR LICENSE, 1885-1912. 1 f. b.

Applications, affidavits and certificates for physicians' licenses, including:

- i. Applications and affidavits, 1885-96, showing same information as in entry 46i. Arr. chron. by dates of applications.
- ii. Certificates issued by state board of medical registration and examination, 1897-1912, showing same information as in entry 46iv. Arr. chron. by dates of certificates.

No index. Hdw. and typed. 10 x 5 x 14. Clk. rec. rm. 1.

DENTISTS

48. DENTISTS' LICENSE RECORD, 1899-. 1 vol.

Original certificates issued by state board of dental examiners, pasted in volume, and record of licenses issued by clerk to practice dentistry in county, showing dates of certificate and license, name, age, address, birthplace and qualifications of dentist, and certificate and license numbers. Arr. chron. by dates of licenses. Indexed alph. by names of dentists. Hdw. 200 pp. 16 x 12 x 1. Clk. rec. rm. 1.

OPTOMETRISTS

49. OPTOMETRY LICENSE RECORD, 1907-. 1 vol.

Original certificates issued by state board of registration and examination in optometry, and pasted in volume, and record of licenses issued by clerk to practice optometry in county, showing dates of certificate and license, name, address and qualifications of optometrist, and certificate and license numbers. Arr. chron. by dates of licenses. Indexed alph. by names of optometrists. Hdw. and typed. 300 pp. 14 x 8 x 1. Clk. rec. rm. 1.

NURSES (see also entry 44ii)

50. REGISTER OF TRAINED NURSES, 1905-. 1 vol.

Register of trained nurses practicing in county, showing date of registration, name and address of nurse, and certificate number. Arr. alph. by names of nurses. No index. Hdw. 300 pp. 12 x 9 x 1½. Clk. rec. rm. 1.

For original certificates, see entry 44ii.

VETERINARIANS

51. VETERINARY RECORD, 1901-Jan. 28, 1905. 1 vol. 1905-May 14, 1919, issued by state board of veterinary medical examiners; May 15, 1919-issued by veterinary examination board.

Record of applications and licenses to practice veterinary medicine and surgery in county, showing dates of application, license and recording, and name and address of applicant. Arr. chron. by dates of applications. No index. Hdw. 158 pp. 18 x 11 x 1. Attic stor. rm. 5.

COMMERCIAL

52. PATENT RIGHT, 1869-. 1 vol.

Record of patent rights granted by U. S. Patent Office with original or certified copies of letters patent attached, showing dates of letters, filing and assignment of rights, number and description of patent, and name and address of patentee. Arr. chron. by dates of filing. Indexed alph. by names of patentees. Hdw. 300 pp. 16 x 11 x 2. Clk. vt.

53. JUNK DEALER'S LICENSE RECORD, 1905-. 2 vols. (1, 2).

Record of licenses issued to buy and sell junk, showing dates of license and expiration, name and address of dealer, and location of business. Arr. chron. by dates of licenses. Indexed alph. by names of dealers. Hdw. 580 pp. 18 x 12 x 4. Clk. rec. rm. 1.

For junk dealers' applications for licenses, see entry 44iii.

54. [POULTRY DEALERS' LICENSE RECORD], 1917-. 2 vols.

Record of applications and issuance of licenses to individuals or companies to purchase poultry, showing dates of application, license and recording, name and address of applicant, and place of business. Arr. chron. by dates of licenses. Indexed alph. by names of applicants. Hdw. 156 pp. 12 x 9 x 1. 1 vol., 1917-Sept. 9, 1932, clk. rec. rm. 2; 1 vol., Sept. 10, 1932-, clk. rec. rm. 1.

For poultry dealers' applications, see entry 44iv.

55. BONDS [Petty Money Lenders], 1913-16. 1 f. b. 1917-33 filed with state auditor; 1934- filed with department of financial institutions.

Original applications for licenses and bonds posted by individuals or firms to operate as petty money lenders, showing dates of application, license, bond, approval and filing, names of principals and sureties, and amount and conditions of bond. Arr. chron. by dates of filing. No index. Hdw. 10 x 5 x 14. Clk. vt.

56. SIRE LICENSE, 1889-June 2, 1913. 1 vol. Discontinued.

Transferred to stallion enrollment board in 1914. Record of applications and issuance of licenses to sire owners, showing dates of application, license and registration, date foaled, name, description, registry number, breed and pedigree of sire, and name of owner. Arr. chron. by dates of applications. Indexed alph. by names of owners. Hdw. 249 pp. 18 x 14 x 2. Clk. vt.

57. INTOXICATION LIQUOR PERMIT RECORD, 1918-Jan. 23, 1920. 1 vol.

Record of applications and bonds posted by and permits issued to pharmacists to sell intoxicating liquors, showing dates of application, permit, bond and approval, names of applicant and surety, address and valuation of business, and amount and conditions of bond. Arr. chren. by dates of applications. Indexed alph. by names of applicants. Hdw. 200 pp. 15 x 11 x 1. Attic stor. rm. 5.

For original applications, see entry 44v.

58. ALCOHOL PERMIT RECORD, 1918-20, Jan. 23, 1920. 1 vol.

Record of applications and permits to receive, possess, sell or use, pure grain alcohol, showing dates of application, notarization and permit, and name, address and occupation of applicant. Arr. chron. by dates of permits. No index. Hdw. 200 pp. 15 x 11 x 1. Attic stor. rm. 5.

For original applications, see entry 44v.

FIREARMS (see also entry 44vi)

59. GUN PERMITS [Applications], 1935-. 1 f. b. 1931-34 in [Clerk's Miscellaneous Papers], entry 44.

Applications for permits to carry firearms, showing dates of applications and filing, number of application, name, address and personal description of applicant, reason for desiring permit, description of firearm, and manufacturer's serial number. Arr. chron. by dates of filing. No index. Hdw. 10 x 5 x 14. Cir. ct. rm.

60. [PERMIT TO CARRY CONCEALED REVOLVER], 1928-. 4 vols. Duplicate copies of permits to carry concealed revolvers, showing date, number and purpose of permit, and name, address and physical description of applicant. Arr. chron. by dates of permits. No index. Hdw. 50 pp. 8 x 10 x 1. 2 vols., 1928-34, attic stor. rm. 6; 2 vols., 1935-, cir. ct. rm.

For triplicates, see entry 61.

61. [PERMIT TO CARRY FIREARM], 1931-. 4 vols.

Triplicates of permits issued to individuals to carry firearms, showing same information as in entry 60. Arr. chron. by dates of permits. No index. Hdw. 50 pp. 8 x 9 x 1/2. Cir. ct. rm.

HUNTING AND FISHING

62. [HUNTING AND FISHING LICENSE], 1933-. 4 f. b. Prior records forwarded to state department of conservation. Stubs of licenses issued to residents and non-residents to hunt, fish and trap in Indiana, showing dates of license and expiration, license number, and name, address, age, and physical description of licensee. Arr. chron. by dates of licenses. No index. Hdw. 10 x 5 x 14. Clk. off.

BUSINESS ASSOCIATIONS

(See also entry 44vii)

63. PARTNERSHIP RECORD, 1910-. 1 vol.

Record of persons engaged in business under names other than their own, showing dates of filing and recording, names and addresses of members and firm or partnership, and kind of business. Arr. chron. by dates of recording. Indexed alph. by names of firms. Hdw. 162 pp. 16 x 12 x 2. Clk. rec. rm. 1.

For original certificates, see entry 44vii.

64. REGISTER OF INSURANCE CERTIFICATES, 1876-1920. 3 vols. (1-3). Discontinued. Agent's license now issued by state and valid in every county.

Register of certificates issued by the state auditor authorizing agent of insurance companies to operate business in county, showing date of filing, names of company and agent, addresses of home and local offices and financial statement. Arr. alph. by names of companies. No index. Hdw. 300 pp. 18 x 12 x 4. Clk. rec. rm. 1.

MISCELLANEOUS

65. ASTRAY RECORD, 1827-Dec. 26, 1918. 2 vols.

Transcripts of notices of animals found and taken up, showing

date of finding, names of finder and appraiser, description of animal, and appraised valuation. Arr. chron. by dates of notices. No index. Hdw. 250 pp. 16 x 14 x 2. Attic stor. rm. 5.

RECEIPTS AND DISBURSEMENTS

66. CLERKS DAILY BALANCE AND CASH STATEMENT, 1916, 1919-24, 1926-. 23 vols. (1, 4-9, 12-27).

Daily balance record of receipts and disbursements, showing date of balance, amount and source of cash received and disbursed, name of depository, amounts of daily deposits and withdrawals, total amounts on hand and in depositories, and depository balance. Arr. chron. by dates of balances. No index. Hdw. 320 pp. 11 x 10 x 2. 7 vols., 1916, 1919-June 1924, attic stor. rm. 5; 7 vols., July-Dec. 1924, 1926-30, clk. rec. rm. 2; 9 vols., 1931-, clk. off.

67. CASH BOOK OF RECEIPTS AND DISBURSEMENTS, 1873-1911, Feb. 1925-. 22 vols. (1-8, 12-25). Title varies: Clerk's Cash Book, 1873-1911, 8 vols.

Record of cash received and disbursed, showing cause number, date, amount and nature of receipt and disbursement, names of payer and payee, receipt and check numbers, and amount due county. This is a combination of two records intercurrently kept separately: Cash Book of Receipts, entry 68; Cash Book of Disbursements, entry 69. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 300 pp. 22 x 18 x 3. 8 vols., 1873, attic stor. rm. 8; 5 vols., 1904-11, clk. vt.; 14 vols., Feb. 1925-, clk. off.

68. CASH BOOK OF RECEIPTS, 1912- Jan. 1925. 11 vols. (1-11). 1873-1911, Feb. 1925- in Cash Book of Receipts and Disbursements, entry 67.

Record of daily cash receipts from all sources, showing date, number and amount of receipt, name of payee, cause number, and total receipts. Arr. chron. by dates of receipts. No index. Hdw. 300 pp. 22 x 18 x 3. Clk. vt.

69. CASH BOOK OF DISBURSEMENTS, 1912-Jan. 1925. 6 vols. (1-6). 1873-1911, Feb. 1925- in Cash Book of Receipts and Disbursements, entry 67.

Record of daily cash disbursements, showing date, nature and amount of disbursement, name of payee, cause and check numbers, and total disbursements. Arr. chron. by dates of disbursements. No index. Hdw. 350 pp. 18 x 16 x 3. Clk. vt.

70. REGISTER OF FEES AND FUNDS HELD IN TRUST, 1873-. 11 vols. (1-11). Title varies: Register of Fees, 1873-1915, 6 vols.

Record of fees and funds collected and held in trust by clerk pending proper disbursement, showing dates and amounts received and disbursed, number and title of cause, and names of plaintiff, defendant, payer and payee. Arr. chron. by dates of payments. 1873-1915, indexed alph. by names of defendants; 1916-, indexed alph. by names of payee. Hdw. 500 pp. 18 x 12 x 4. 6 vols., 1873-1915, clk. rec. rm. 1; 4 vols. 1916-Mar. 1936, clk. rec. rm. 2; 1 vol., Apr. 1936-, clk. off.

71. SUPPORT DOCKET, 1918-. 6 vols. 1841-1917 in Judgment Docket, entry 136.

Record of money received and disbursed in support causes, showing dates of order, receipt and disbursement, names of plaintiff, defendant, attorney and court, signatures of payer and payee, amounts of receipt and disbursement, and volume and page reference to Judgment Docket, entry 136. Arr. num. by cause numbers. No index. Hdw. 500 pp. 14 x 18 x 3. Clk. off.

72. [RECEIPT FOR SUPPORT PAYMENTS], 1913-35. 81 vols., 1 carton.

Duplicate copies of receipts for money received and disbursed by clerk in support causes, showing dates and amounts received and disbursed, names of payer and payee, receipt number and page reference to Support Docket, entry 71. Arr. chron. by dates of receipts. No index. Hdw. 4 vols., 250 pp. 17 x 14 x 1; 77 vols., 50 pp. 1913-15, clk. rec. rm. 1; 45 vols., 1916-28, attic stor. rm. 6; 1 carton, 1929-35, bsmt. vt.; 4 vols., 1932-35, attic stor. rm. 5.

IV. RECORDER

The recorder is a constitutional officer, elected for a four-year term by the voters of the county. The office was created by the Constitution of 1816 and re-created by the Constitution of 1851. Under the Constitution of 1816, the recorder was elected for a seven-year term by the voters of the county.¹ He is commissioned by the governor,² and holds

¹ Const. 1816, art. 11, sec. 10. Const., art. 6, sec. 2. Acts 1816-17, ch. 19, sec. 1. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

office until his successor is elected and qualified.³ No person is eligible to the office for more than eight years in any 12 year period.⁴ The recorder must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;⁵ and, while holding said office, he must reside within the county, must not hold any other lucrative office,⁶ and must not practice law.⁷ Under the Constitution of 1816, the offices of recorder and clerk of the circuit court could be held simultaneously by one person.⁸ He must post bond in the amount of \$4,000—approved by the board of commissioners and filed with the clerk of the circuit court—⁹ and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.¹⁰

The recorder receives a regular salary of \$2,240 per year.¹¹ He is permitted to retain, as compensation for himself, in addition to his regular salary, 20 percent of the fees collected by him, provided the total amount of fees so retained be not more than \$3,760.¹²

For sufficient legal grounds the recorder may be removed by the circuit court or superior court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by

² Const. 1816, art. 11, sec. 9. Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const., art. 15, sec. 3.

⁴ *Ibid.*, art. 6, sec. 2. Carson v. McPhetridge (1860), 15 Ind. 327.

⁵ Const. 1816, art. 11, sec. 14. Const., art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const., art. 2, sec. 9: art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State (1867), 27 Ind. 491.

⁸ Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

⁹ Rev. Laws 1831, ch. 77, secs. 2, 3. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469. State *ex rel.* Lowry v. Davis (1884), 96 Ind. 539; State *ex rel.* Lowry v. Davis (1889), 117 Ind. 307, 20 N. E. 159.

¹⁰ Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹¹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹² Acts 1933; Burns 49-1001, 49-1005, 49-1009; Baldwin 7531, 7535, 7539. Acts 1933, 1937; Burns, 1939 suppl., 49-1009; Baldwin, 1937 suppl., 7539. Shilling v. State *ex rel.* Board of County Comrs. (1901), 158 Ind. 185, 62 N. E. 49.

the supreme court.¹³ If the recorder is convicted of a felony the judgment of conviction must declare his office vacant.¹⁴

Any vacancy in the office of recorder is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a recorder is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take an oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁵

The recorder may appoint one deputy without the approval of the board of commissioners, and may appoint additional deputies and assistants with such approval. The county council fixes the salaries of those deputies and assistants, and the salary of each must be not less than \$75 nor more than \$200 per month.¹⁶ The recorder may require any deputy to give bond.¹⁷ The deputies must take the oath required of the recorder, may perform all the official duties of the recorder, and are subject to the same regulations and penalties.¹⁸ The recorder may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁹

Formerly the auditor, recorder, and clerk of the circuit court had charge of the county library, and constituted a board of trustees for that purpose. The board was authorized to elect one of its members treasurer, appoint a librarian, expend money appropriated for the library, and make loans of the surplus library fund, and was required to make an annual

¹³ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-824, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁴ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁵ Const., art. 6, sec. 9. Rev. Laws 1824, ch. 36, sec. 1. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Hedley v. Board of County Comrs.* (1835), 4 Blackf. 131; *Douglass v. State ex rel. Wright* (1869) 31 Ind. 429. *State ex rel. Ault v. Long* (1883), 91 Ind. 351. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

¹⁷ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

¹⁸ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁹ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

report to the board of commissioners.²⁰ The county library has been discontinued.²¹

Formerly the county treasurer, auditor, and recorder selected petit jurors for the circuit court and common pleas court.²²

The county recorder records, in specific books and files (other than the miscellaneous record), the various documents listed below: Deeds;²³ land patents;²⁴ mortgages, and satisfactions, releases, and assignments thereof;²⁵ all maps and

²⁰ Const. 1816, art. 9, sec. 5. Acts 1816-17, ch. 28; ch. 44, sec. 6. Rev. Laws 1824, ch. 60, sec. 9. Rev. Laws 1831, ch. 59, secs. 3, 9, 10. 1 Rev. Stat. 1852; Burns 41-503; Baldwin 10321 note. Acts 1861; Burns 41-507; Baldwin 10321 note. Traylor v. Dykins (1883), 91 Ind. 229.

²¹ Commissioners' Record, 6:426. *Muncie Evening Press*, June 10, 1935.

²² 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

²³ Acts 1817-18 (general), ch. 28, secs. 1, 10. Acts 1819-20, ch. 65, sec. 2. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Acts 1836-37 (general), ch. 9, secs. 9-16. Rev. Stat. 1838, ch. 85, sec. 1. Rev. Stat. 1843, ch. 8, sec. 6. 1 Rev. Stat. 1852; Burns 49-3210, 56-118, 56-131; Baldwin 5475, 14664, 14665. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Lowry v. Smith (1884), 97 Ind. 466.

Cemetery records. Acts 1925; Burns 21-223; Baldwin 4648. 1 Rev. Stat. 1852; Burns 25-1521, 25-1522; Baldwin 10600, 10602.

Wabash and Erie Canal deeds. Acts 1881 (Spec. Sess.); Burns 2-1626; Baldwin 267.

Deeds of commissioners appointed by court to make conveyance. Acts 1881 (Spec. Sess.); Burns 3-1008; Baldwin 894.

Tax deeds. Acts 1881 (Spec. Sess.), ch. 96, sec. 211.

Deeds connected with school fund loans. Acts 1899; Burns 28-255; Baldwin 6607.

²⁴ "May be recorded as other deeds and conveyances." Acts 1881; Burns 2-1632; Baldwin 271.

²⁵ Acts 1817-18 (general), ch. 28, sec. 1. Acts 1825-26, ch. 42, sec. 17. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, sec. 1. Rev. Stat. 1838, ch. 85, sec. 9. Rev. Stat. 1843, ch. 8, sec. 6. Acts 1909, 1917, 1923; Burns 2-617; Baldwin 61-2 (repealed by Acts 1937, ch. 97, sec. 4.) Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1905; Burns 49-3202, 49-3204; Baldwin 5476, 5473. 1 Rev. Stat. 1852; Burns 49-3210. Baldwin 5475. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. 1 Rev. Stat. 1852; Burns 56-122; Baldwin 14673. 2 Rev. Stat. 1852; Burns 56-705, 56-708; Baldwin 989, 992. Acts 1901; Burns 56-709, 56-710; Baldwin 993, 994. Acts 1925; Burns 56-712, 56-713; Baldwin 10575, 10576. 2 Rev. Stat. 1852, Acts 1877; Burns 56-715; Baldwin 996. Acts 1877; Burns 56-716; Baldwin 998. Acts 1899; Burns 56-717; Baldwin 997. Anderson Bldg. & L. Sav. Assn. v. Thompson (1881), 87 Ind. 278; Mechanics' Bldg. Assn. v. Whitacre (1884), 92 Ind. 547; Chandler v. Scott (1891), 127 Ind. 226, 26 N. E. 797; State *ex rel.* McCoy v. Krost. (1894), 140 Ind. 41, 39 N. E. 46.

Chattel mortgages. Rev. Stat. 1838, ch. 85, sec. 1. 1 Rev. Stat. 1852, Acts 1897; Burns

plats;²⁶ decrees quieting title to lands;²⁷ farm names;²⁸ marks and brands of animals;²⁹ old-age assistance awards;³⁰ statutory liens of owners of stallions;³¹ probated wills;³² inheritance tax receipts;³³ soldiers' and sailors' discharge papers;³⁴ and contracts waiving liens of laborers, material-men, and building contractors.³⁵ Formerly indentures of apprentices were recorded in specific books.³⁶

The county recorder keeps a miscellaneous record in which he records the following documents: All leases of lands;³⁷ powers of attorney;³⁸ surveys establishing meridian

33-301, 33-302; Baldwin 8373, 8374 (first section repealed by Acts 1935, ch. 147, sec. 20). Acts 1935; Burns, 1939 suppl., 51-504 to 51-517; Baldwin, 1935 suppl., 13227-4 to 13327-17.

School fund loans. Acts 1836-37 (general), ch. 2, sec. 10. Acts 1865; Burns 28-233; Baldwin 6583. Stockwell v. State *ex rel.* Johnson (1885), 101 Ind. 1.

Mortgages held by county agent. Rev. Stat. 1838, ch. 69, sec. 15.

²⁶ Rev. Laws 1831, ch. 77, sec. 7. Acts 1881 (Spec. Sess.); Burns 6-1127; Baldwin 3168. Acts 1925; Burns 21-219 to 21-221, 21-225, 21-226, 21-228; Baldwin 4644 to 4646, 4650, 4651, 4653. 1 Rev. Stat. 1852; Burns 25-1522; Baldwin 10602. Acts 1905; Burns 48-801, 49-802; Baldwin 12473, 12474. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

²⁷ Acts 1911; Burns 4-1409; Baldwin 968.

²⁸ Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

²⁹ Acts 1835-36 (general), ch. 24, sec. 1. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

³⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

³¹ Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3793.

³² Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. Acts 1933; Burns 7-713; Baldwin 3414.

³³ Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labelled "transfer tax."

³⁴ Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*

³⁵ Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

³⁶ Rev. Laws 1831, ch. 69, sec. 7. Rev. Stat. 1838, ch. 4, sec. 2. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475.

The law providing for indenturing of apprentices was repealed in 1939. Acts 1939, ch. 10.

³⁷ 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

Miscellaneous record specified. Acts 1897; Burns 56-120.

³⁸ Acts 1881 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1883; Burns 49-1309, 56-108, 56-109; Baldwin 14733, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 14731.

line;³⁹ leases of rolling stock and equipment of railroads;⁴⁰ statutory liens of laborers, materialmen,⁴¹ and transfermen;⁴² surveyor's field notes;⁴³ fence marks;⁴⁴ official bonds of the clerk of the circuit court;⁴⁵ limited partnerships;⁴⁶ statutory statements of express companies;⁴⁷ notices of disputes of easements;⁴⁸ charters and proceedings of corporations and associations;⁴⁹ certificates revoking the admission of foreign corporations to do business in this state;⁵⁰ conditional sales of fixtures;⁵¹ federal tax lien notices, and satisfactions and releases thereof;⁵² satisfactions of vendors' liens;⁵³ and other documents presented for recording (not mentioned in the preceding paragraph) which no law requires to be recorded

³⁹ Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

⁴⁰ Acts 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

⁴¹ Rev. Stat. 1838, ch. 69, sec. 7. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 650, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. *State ex rel. Lyons v. Phillips* (1901), 157 Ind. 481, 62 N. E. 12.

Corporation employees. Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

⁴² Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

⁴³ Acts 1828-29, ch. 94, sec. 1. Rev. Laws 1831, ch. 102, sec. 7. Rev. Stat. 1843, ch. 10, secs. 10, 11. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁴⁴ Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7630.

⁴⁵ Rev. Laws 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89. 1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

⁴⁶ Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1859; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

⁴⁷ Acts 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

⁴⁸ 1 Rev. Stat. 1852; Burns 56-804; Baldwin 14775.

⁴⁹ Acts 1820-21, ch. 20, sec. 1. Rev. Laws 1824, ch. 64, secs. 1, 7; ch. 87, secs. 7, 9. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941, 4942, 4963, 4967, 4969. Acts 1883; Burns 25-2002; Baldwin 10681. Acts 1909; Burns 25-3602; Baldwin 9280-2.

⁵⁰ Acts 1929; Burns 25-311; Baldwin 4969.

⁵¹ Acts 1935; Burns, 1939 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires a separate record to be kept. *Ibid.*

⁵² Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

The law requires recording in a file labelled "Federal Tax Lien Notices" and requires the keeping of an index book labelled "Federal Tax Lien Index." *Ibid.*

⁵³ Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1889; Burns 56-144, 56-145; Baldwin 14702, 14703.

in a separate or specific book or file.⁵⁴ Formerly he recorded in the miscellaneous record dentists' certificates of registration,⁵⁵ contracts waiving liens of laborers, materialmen, and building contractors,⁵⁶ and special assessments against lands benefited by ditches and drains.⁵⁷ The recorders of Delaware County started keeping the miscellaneous record in 1858 and have kept said record continuously since then. Documents of the kinds recorded in the miscellaneous record after 1858 were recorded in the deed record before 1858. Recorders in all of the counties started keeping miscellaneous records about the same time, though no statute has ever required the keeping of such record. The general assembly has on several occasions required that certain specified documents be recorded in the miscellaneous record, and thus recognized the custom of the recorders in keeping such records.⁵⁸

To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,⁵⁹ and the intangible tax thereon (if any) must be paid.⁶⁰ For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed, names of parties, and post-office addresses of grantees. A fee of 10 cents is charged for each instrument so entered. No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and the auditor has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.⁶¹

The recorder keeps an entry book in which he enters, as filed, all instruments delivered to him for recording, noting

⁵⁴ Rev. Laws 1831, ch. 77, sec. 7. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471.

⁵⁵ Acts 1837, ch. 32, sec. 9 (repealed by Acts 1899, ch. 221, sec. 29).

⁵⁶ Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

⁵⁷ Acts 1907, ch. 252, sec. 6 (repealed by Acts 1933, ch. 264, sec. 81).

⁵⁸ Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁵⁹ Rev. Laws 1831, ch. 41, secs. 7, 11. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14665, 14669, 14658, 14677, 14659, 14733.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

⁶⁰ Acts 1933; Burns 64-929; Baldwin 15927.

⁶¹ 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

the day and hour received, which time is the legal date of recording.⁶² He keeps a combined fee book and cashbook, and enters therein, as received, all money received in his office.⁶³ He is required to index the deeds, mortgages, and other instruments recorded by him.⁶⁴

The photographic process of recording instruments may be used by the recorder if adopted by the board of commissioners. Such method has never been used generally by the recorder of Delaware County.⁶⁵

Forms for the following books were prescribed for recorders by the state board of accounts: A combined fee book and cashbook; register of farm names; chattel mortgage minute book; and abstract of old-age assistance awards. Said board has prescribed forms of blanks for report of fees collected, application for registration of farm names, certificate of registration of farm names, and chattel mortgage receipt.⁶⁶

The books and accounts of the recorder are examined, from time to time without notice, by the state examiner.⁶⁷

⁶² Acts 1817-18 (general), ch. 28, sec. 10. Rev. Laws 1831, ch. 77, sec. 4. Rev. Stat. 1843, ch. 8, sec. 6. Acts 1895; Burns 49-3203; Baldwin 5472. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 14665. *Hand v. Board of County Comrs.* (1866), 26 Ind. 179; *Holman v. Doran* (1877), 56 Ind. 358; *Gilchrist v. Gough* (1878), 63 Ind. 576; *Moore v. Glover* (1888), 115 Ind. 367, 16 N. E. 163.

⁶³ Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1308; Baldwin 7566. Acts 1895; Burns 49-1401; Baldwin 7576.

⁶⁴ Acts 1825, ch. 44, sec. 1. Rev. Laws 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. *Garrett v. Board of County Comrs.* (1883), 92 Ind. 518.

Deeds. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. 1 Rev. Stat. 1852, Acts 1855; Burns 49-3216, 49-3218; Baldwin 5480, 5482. *Turpen v. Board of County Comrs.* (1855), 7 Ind. 172; *State ex rel. Board of County Comrs. v. Atkinson* (1861), 17 Ind. 26.

Mortgages. 1 Rev. Stat. 1852; Burns 49-3209, 49-3217, 49-3218; Baldwin 5471, 5481, 5482. *Gilchrist v. Gough* (1878), 63 Ind. 576; *Reeder v. State ex rel. Harlan* (1884), 98 Ind. 114.

Index to chattel mortgage minute book. Acts 1935; Burns, 1939 suppl., 51-510; Baldwin, 1935 suppl., 13227-10.

Federal tax liens. Acts 1925; Burns 49-3222; Baldwin 10571.

Conditional sales of fixtures. Acts 1935; Burns, 1939 suppl., 58-606, 58-809; Baldwin, 1935 suppl., 14857-5, 14857-8.

Quiet title record. Acts 1911; Burns 3-1409; Baldwin 968.

Soldiers' and sailors' discharge papers. Acts 1925; Burns 59-1003; Baldwin 11003.

Contracts waiving liens of laborers, materialmen, and building contractors. Acts 1921, ch. 56, sec. 1.

⁶⁵ Acts 1927; Burns 49-3207; Baldwin 14667.

⁶⁶ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁶⁷ Acts 1909; Burns, 60-211; Baldwin 13862.

ENTRY OF INSTRUMENTS FOR RECORDING

73. ENTRY BOOK, 1843-. 49 vols. (16 vols. not labelled, 8-13, 18-43, 21).

Record of filing of instruments for recording, showing date and number of instrument, time of filing, volume and page reference to recording, names of principals, location and description of property, and amount of consideration. Also contains: Fee and Cash Book, 1843-1909, entry 111. Arr. num. by instrument nos. No index. Hdw. 321 pp. 20 x 18 x 3. 23 vols., 1843-Sept. 1914, attic stor. rm. 6; 26 vols., Oct. 1914-, recr. vt.

LAND TRANSFERS

DEEDS AND TITLES

74. DEED RECORD, 1827-. 243 vols. (1-243).

Transcripts of documents conveying titles to real property, including:

- i. Deeds, showing dates of deed and recording, names of grantor and grantee, amount of consideration, and location and description of property.

For original deeds, see entry 77i.

- ii. Wills, showing dates of will and recording, names of testator, executor, beneficiaries and witnesses, date entered for taxation, and nature of bequests.

For original wills, 1843-, see entry 77x; for other will records, see entry 162.

Also contains: Sheriff's Deed Record, 1828-70, entry 78; County Cemetery Record, 1894-1924, entry 81; Tax Title Deed, 1829-62, 1883-, entry 82; Plat Book, 1827-51, entry 84; Mortgage Record, 1827-42, entry 89; Miscellaneous Record, 1827-57, entry 105. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees; for separate indexes, 1829-, see entries 75, 76. 1827-Nov. 14, 1901, hdw.; Nov. 15, 1901-, typed. 600 pp. 20 x 14 x 4. Recr. vt.

75. DEED INDEX, GRANTOR, 1829-. 27 vols. (2-28).

Index to Deed Record, entry 74, showing kind of deed, names of grantor and grantee, location and description of property, amount of consideration, and volume and page reference to recording. Arr. alph. by names of grantors. Hdw. 600 pp. 18 x 12 x 4. Recr. vt.

76. DEED INDEX, GRANTEE, 1829-. 27 vols. (2-28).

Index to Deed Record, entry 74, showing same information as entry 75. Arr. alph. by names of grantees. Hdw. 600 pp. 18 x 12 x 4. Recr. vt.

77. [RECORDER'S MISCELLANEOUS PAPERS], 1831-. 182 f. b. (labelling varies).

Original instruments left for recording and uncalled for, including:

- i. Deeds, showing same information as entry 74i.
- ii. Photostatic copies of patent deeds, 1831-37, showing same information as entry 74i.
- iii. Real Estate Mortgage, 1843-, showing same information as entry 89.
- iv. Chattel Mortgage, 1843-, showing same information as entry 95.
- v. Releases, 1843-, showing same information as entry 101.
- vi. Mechanics Liens, 1858-, showing same information as entry 105vii.
- vii. Affidavits, showing same information as entry 105i.
- viii. Power of Attorney, 1836-, showing same information as entry 105ii.
- ix. Articles of Association, 1840-, showing same information as entry 105iii.
- x. Wills and Testaments, 1843-, showing same information as entry 74ii.
- xi. Bills of Sale, 1858-, showing same information as entry 105iv.
- xii. Leases, 1858-, showing same information as entry 105v.
- xiii. Contracts, 1858-, showing same information as entry 105vi.

1831-1924 no obvious arr.; 1925-, arr. alph. by names of principals. No index. Hdw. and typed. 12 x 5 x 16. Rec. off.

78. SHERIFF'S DEED RECORD, 1871-. 6 vols. (1-6). 1828-70 in Deed Record, entry 74.

Transcripts of deeds for conveyance of titles to real property sold to satisfy judgments, showing dates of sale, deed and recording, names of grantor and grantee, amounts of judgment, interest and costs, and amount realized at sale. Arr. chron. by dates of recording. Indexed alph. by names of grantees. 1871-Feb. 1902, hdw.; Mar. 1902-, typed. 300 pp. 20 x 14 x 5. Recr. vt.

79. QUIET TITLE RECORD, 1911-. 2 vols. (1, 2).

Transcripts of decrees rendered in court actions involving titles to real property, showing dates of action, decree and recording, names of plaintiff, defendant, attorneys and witnesses, and location and description of property. Arr. chron.

by dates of recording. Indexed alph. by names of plaintiffs and defendants. For separate index, see entry 80. Typed. 300 pp. 18 x 12 x 3. Recr. vt.

80. INDEX TO QUIET TITLE TRANSCRIPTS, 1911-. 1 vol. Index to Quiet Title Record, entry 79, showing dates of filing and recording, names of plaintiff and defendant, description and location of property, and volume and page reference to recording. Arr. alph. by names of plaintiffs. Hdw. 580 pp. 18 x 12 x 3. Recr. vt.

81. COUNTY CEMETERY RECORD, 1925-. 1 vol. 1894-1924 in Deed Record, entry 74. Transcripts of deeds for conveyance of titles to cemetery lots, showing dates of sale and recording, lot, block and section numbers, amount of sale, and name of purchaser. Arr. chron. by dates of recording. Indexed alph. by names of purchasers. Typed. 650 pp. 20 x 14 x 5. Recr. vt.

82. TAX TITLE DEED, 1868-82. 1 vol. 1829-62, 1883- in Deed Record, entry 74. Transcripts of deeds conveying titles to real property sold for nonpayment of taxes, showing dates of sale, deed and recording, names of grantor and grantee, location and description of property, and amount of consideration. Arr. chron. by dates of recording. Indexed alph. by names of grantees. Hdw. 267 pp. 18 x 14 x 3. Recr. vt.

For tax sale record, see entry 295.

83. TRACT BOOK, 1820-41. 2 vols. Abstracts of original land grants from U. S. Government, showing dates of grant and recording, description of tract, number of acres, name of grantee, and volume and page reference to Deed Record, entry 74. Arr. by twps., thereunder num. by range and section nos. No index. Hdw. 100 pp. 18 x 12 x 2. Recr. vt.

PLATS

84. PLAT BOOK, 1852-. 6 vols. (1, 2, 2-5). 1827-51 in Deed Record, entry 74. Plat drawings of cities, towns, additions and subdivisions, showing dates of transfer and recording, names of city, town and addition or subdivision and property owner, location and length and width of public grounds, streets and alleys, and number and size of lots. Arr. by names of cities, towns and additions. For index, see entry 85. 75 pp. 18 x 25 x 2. Recr. vt.

85. INDEX TO PLAT BOOK, 1852-. 1 vol.

Index to Plat Book, entry 84, showing names of plat, cities, towns and additions, and volume and page reference to recording. Arr. alph. by names of cities, towns and additions. Typed. 300 pp. 18 x 13 x 2. Recr. vt.

MORTGAGE TRANSACTIONS

REAL ESTATE

86. MORTGAGE INDEX, 1831-Sept. 12, 1862. 1 vol. (1).

Index to mortgages recorded in Deed Record, 1831-42, entry 74 and Mortgage Record, 1843-Sept. 12, 1862, entry 89, showing names of mortgagor and mortgagee, date and kind of mortgage, date of recording, amount of consideration, description and location of property, and volume and page reference to recording. This is a combination of two records later kept separately. Mortgage Index, Mortgagor, entry 87; Mortgage Index, Mortgagee, entry 88. Arr. alph. by names of mortgagees and mortgagors. Hdw. 400 pp. 20 x 14 x 4. Recr. vt.

87. MORTGAGE INDEX, MORTGAGOR, Sept. 13, 1862-. 21 vols. (2-22). 1831-Sept. 12, 1862 in Mortgage Index, entry 86.

Index to Mortgage Record, entry 89, showing same information as in entry 86. Arr. alph. by names of mortgagors. Hdw. 400 pp. 20 x 14 x 4. Recr. vt.

88. MORTGAGE INDEX, MORTGAGEE, Sept. 13, 1862-. 21 vols. (2-22). 1831-Sept. 12, 1862 in Mortgage Index, entry 86.

Index to Mortgage Record, entry 89, showing same information as in entry 86. Arr. alph. by names of mortgagees. Hdw. 400 pp. 20 x 14 x 4. Recr. vt.

89. MORTGAGE RECORD, 1843-. 163 vols. (1-163). 1827-42 in Deed Record, entry 74.

Transcripts of mortgages executed on real property, showing dates of mortgage, maturity and recording, names of mortgagor and mortgagee, description and location of property, amount of mortgage, and rate of interest. Also contains: School Fund Mortgage Record, 1843-56, entry 90; Chattel Mortgage Record, 1843-80, entry 95. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors and mortgagees; for separate indexes, see entries 86-88. 1843-May 1902, hdw.; June 1902-, typed. 650 pp. 20 x 14 x 3. Recr. vt.

For original mortgages, see entry 77iii.

90. SCHOOL FUND MORTGAGE RECORD, 1857-. 6 vols. (1-6).

1843-56 in Mortgage Record, entry 89.

Transcripts of mortgages executed as security for school fund loans, showing dates of mortgage, maturity and recording, title of fund, name of mortgagor, description and location of property, and amount and conditions of mortgage. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors; for separate index, see entry 91. 1857-Jan. 1903, hdw.; Feb. 1903-, typed. 600 pp. 20 x 14 x 4. Recr. vt.

For other school fund mortgages, see entries 229, 302.

91. SCHOOL FUND MORTGAGE INDEX RECORD, 1857-. 2 vols. (1, 2).

Index to School Fund Mortgage Record, entry 90, showing date and amount of mortgage, dates of recording and satisfaction, names of mortgagor and mortgagee, description of real estate, and volume and page reference to recording. Arr. alph. by names of mortgagors. Hdw. 600 pp. 20 x 14 x 4. Recr. vt.

92. MUTUAL HOME AND SAVINGS ASSOCIATION MORTGAGE RECORD, 1920-. 13 vols. (1-13).

Transcripts of mortgages executed to secure Mutual Home and Savings Association loans on real property, showing dates of mortgage, maturity, filing and recording, names of mortgagor and mortgagee, description and location of property, and amount and conditions of mortgage. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. Typed. 600 pp. 18 x 12 x 2½. Recr. vt.

93. MUNCIE FEDERAL SAVINGS AND LOAN ASSOCIATION REAL ESTATE, MORTGAGE RECORD, 1934-. 3 vols. (1-3).

Transcripts of mortgages executed to secure Muncie Federal Savings and Loan Association loans on real property, showing dates of mortgage, maturity, filing and recording, names of mortgagor and mortgagee, description and location of property, and amount and conditions of mortgage. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. Typed. 600 pp. 20 x 14 x 5. Recr. vt.

CHATTEL

94. CHATTEL MORTGAGE MINUTE BOOK, June 13, 1935-. 5 vols. (1-5).

Abstracts of mortgages executed to secure loans on personal property, showing date and number of mortgage, time of filing, names of mortgagor, mortgagee, amount of mortgage, date of maturity, and description of property. Arr. num. by mortgage nos. Indexed alph. by names of mortgagors and mortgagees. Hdw. 300 pp. 18 x 14 x 4. Recr. vt.

For prior records, see entry 95; for original chattel mortgages, see entry 77iv.

95. CHATTEL MORTGAGE RECORD, 1881-June 12, 1935. 72 vols. (1-72). 1843-80 in Mortgage Record, entry 89. Transcripts of mortgages executed to secure loans on personal property, showing dates of mortgage, maturity and recording, names of mortgagor and mortgagee, description of property, and amount and conditions of mortgage. Also contains: Welfare Loan Society of Muncie Chattel Mortgage Record, 1929-June 12, 1935, entry 96; Personal Finance Company Chattel Mortgage Record, 1929-June 12, 1935, entry 97. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors and mortgagees. 1881-Oct. 24, 1901, hdw.; Oct. 28, 1901-, typed. 600 pp. 18 x 12 x 2½. 51 vols., 1881-June 4, 1928, attic stor. rm. 3; 21 vols., June 7, 1928-June 12, 1935, recr. vt.

For subsequent records, see entry 94; for original chattel mortgages, see entry 77iv.

96. WELFARE LOAN SOCIETY OF MUNCIE CHATTEL MORTGAGE RECORD, 1924-28. 3 vols. (1-3). 1929-June 12, 1935 in Chattel Mortgage Record, entry 95.

Transcripts of mortgages executed to secure Welfare Loan Society of Muncie loans on personal property, showing dates of mortgage, maturity and recording, names of mortgagor and mortgagee, description of property, and amount and conditions of mortgage. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. Typed. 600 pp. 18 x 12 x 2½. Attic stor. rm. 3.

97. PERSONAL FINANCE COMPANY CHATTEL MORTGAGE RECORD, 1927-28. 1 vol. 1929-June 12, 1935 in Chattel Mortgage Record, entry 95.

Transcripts of mortgages executed to secure Personal Finance Company loans, showing dates of mortgage, maturity and recording, names of mortgagor and mortgagee, description of property, and amount and conditions of mortgage. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. Typed. 580 pp. 18 x 12 x 2½. Attic stor. rm. 3.

LIENS

98. OLD AGE ASSISTANCE CERTIFICATES, 1936-. 1 vol.

Abstracts of old-age assistance certificates establishing liens against property of recipients, showing dates of certificate and recording, application and certificate numbers, and name of recipient. Arr. chron. by dates of recording. Indexed alph.

by names of recipients. Hdw. 484 pp. 18 x 14 x 3. Recr. vt.

For other old-age assistance records, see entries 99, 270, 358-364, 372.

99. [CERTIFICATES OF AWARD FOR OLD-AGE ASSISTANCE], 1936-
1 f. b.

Certificates of old-age assistance awards establishing liens against property of recipients, showing dates of certificate and recording, application code and serial numbers, name of recipient, and amount of award. Arr. chron. by dates of filing. No index. Typed. 10 x 5 x 16. Recr. off.

For other old-age assistance records, see entries 98, 270, 358-364, 372.

100. SIRE LIEN, 1891-. 1 vol.

Transcripts of liens executed for nonpayment of breeding services, showing dates of lien, service and recording, names and description of sire and dam, names of owners, and amount of lien. Arr. chron. by dates of recording. Indexed alph. by names of sire owners. Hdw. 600 pp. 20 x 14 x 5. Recr. vt.

RELEASES

101. RELEASE RECORDS, 1892-. 10 vols. (1-10).

Transcripts of releases, assignments and waivers of priority on real estate and chattel mortgages and mechanics' liens, showing dates of instrument, release and recording, kind of instrument, names of mortgagor and mortgagee, lienor and lienee, or assignor and assignee, and amount of satisfaction. Arr. chron. by dates of recording. Indexed alph. by names of mortgagees, lienees and assignors. 1892-Aug. 3, 1904, hdw.; Aug. 3, 1904-, typed. 600 pp. 20 x 14 x 4. Recr. vt.

For original releases, see entry 77v.

MILITARY RECORDS

(See also entries 26, 27)

102. SOLDIERS DISCHARGE RECORD, 1865-. 3 vols. (1, 1, 2).

Record of discharges from U. S. Army, showing name, age, rank, service record and physical description of soldier, dates and places of birth, enlistment and discharge, names of regiment, company and commanding officer, reason for discharge, and date of recording. Arr. chron. by dates of recording. Indexed alph. by names of soldiers. Hdw. 600 pp. 20 x 14 x 4. Recr. vt.

103. DISCHARGE RECORD U. S. NAVY, 1919-. 1 vol.

Record of discharges from U. S. Navy, showing name, age, rank, service record and physical description of sailor, dates and places of birth, enlistment and discharge, name of commanding officer, reason for discharge, and date of recording. Arr. chron. by dates of recording. Indexed alph. by names of sailors. Hdw. 650 pp. 20 x 14 x 5. Recr. vt.

104. SPANISH AMERICAN WAR ENROLLMENTS, 1886-90. 1 f. b.

Lists of soldiers who served in the Spanish-American War, showing dates of enrollment and filing, place of enrollment, names of regiment and company, and name, address and personal history of soldier. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 14. Attic stor. rm. 3.

MISCELLANEOUS RECORDS

105. MISC[ellaneous] RECORD, 1858-. 56 vols. (A-Z, AA-ZZ, A1-A4). 1827-57 in Deed Record, entry 74.

Transcripts of miscellaneous instruments including:

- i. Affidavits, showing dates of affidavit and filing, and name and statement of affiant.

For original affidavits, see entry 77vii.

- ii. Powers of Attorney, showing dates of instrument and recording, names of principal, agent and notary public, and term and conditions of authorization.

For original powers of attorney, see entry 77viii.

- iii. Articles of Association, showing dates of articles and recording, name of corporation or association, place of business, amount of capital stock, description of seal, and names of officers.

For original articles of association, see entry 77ix.

- iv. Bills of Sale, showing dates of instrument and recording, description and itemized list of property, names of vendor and purchaser, and amount realized.

For original bills of sale, see entry 77xi.

- v. Leases, showing dates of lease and recording names of lessee and lessor, and amount and conditions of lease.

For original leases, see entry 77xii.

- vi. Contracts, showing dates of contract and recording, names of principals, location and description of property, and amount and conditions of contract.

For original contracts, see entry 77xiii.

- vii. Mechanics Liens, showing dates of lien and recording, names of lienor and lienee, description and location of property, and amount of lien.

For original liens, see entry 77vi.

- viii. Infrequent recording of many other instruments of minor nature, showing dates of instrument and recording, nature and conditions of instrument, and names of principals.

Arr. chron. by dates of recording. Indexed alph. by names of principals. 1858-Sept. 26, 1901, hdw.; Sept. 27, 1901-, typed. 600 pp. 20 x 14 x 4. Recr. vt.

106. INHERITANCE TAX RECEIPT RECORD, 1914-. 1 vol.

Record of receipts issued by treasurer or auditor of state for payment of inheritance and transfer taxes, showing dates of receipt and recording, names of estate and payer, and amount of taxes paid. Arr. chron. by dates of recording. Indexed alph. by names of estates. Typed. 400 pp. 9 x 14 x 1½. Recr. vt.

For other inheritance tax records, see entries 175, 234.

107. REGISTER OF FARM NAMES, 1913-. 1 vol.

Register of names assigned to farms, showing date of registration, name, location and description of farm, and name and address of owner. Arr. chron. by dates of registrations. Indexed alph. by names of owners. 1913-July 1920, hdw.; Sept. 1920-, typed. 480 pp. 9 x 12 x 2. Recr. vt.

108. CONTRACTORS AGREEMENT RECORD, 1923-. 2 vols. (1, 2).

Record of agreements between contractors and owners to insure against establishment of mechanics' liens on property, showing dates of agreement and recording, names of contractor and owner, and conditions of agreement. Arr. chron. by dates of recording. Indexed alph. by names of contractors. Typed. 400 pp. 11 x 16 x 2. Recr. vt.

109. RECORD OF INDENTURES, 1866-92. 1 vol. Discontinued.

Transcripts of agreements to bind minors to service, showing dates of agreement and recording, name, age, race and birth-date of apprentice, name and address of master, name of apprentice's father, and conditions and duration of agreement. Arr. chron. by dates of agreements. Indexed alph. by names of apprentices. Hdw. 394 pp. 13 x 8 x 2. Attic stor. rm. 5.

110. RECORD OF MARKS AND BRANDS, 1836-43. 1 vol.

Register of marks and brands for identification of livestock, showing date of registration, name and address of owner, and description of mark or brand. Arr. alph. by twps., thereunder by names of owners. No index. Hdw. 475 pp. 12 x 7 x 2. Attic stor. rm. 5.

FEE AND CASH RECORDS

111. FEE AND CASH BOOK, 1910-. 19 vols. (16, 1-18). 1843-1909 in Entry Book, entry 73.

Record of fees received for recording of instruments, showing date fees received, number and kind of instrument, name of payer, amount and kind of fee, and total amount collected. Arr. chron. by dates fees received. No index. Hdw. 300 pp. 20 x 14 x 5. 14 vols., 1910-May 8, 1913, Mar. 1919-Apr. 3, 1935, attic stor. rm. 3; 3 vols., May 10, 1913-Feb. 1919, attic stor. rm. 6; 2 vols., Apr. 5, 1935-, recr. off.

MAPS

112. DELAWARE COUNTY, INDIANA, 1921. 1 map.

Communication map of Delaware County, showing cities and towns, highways, roads, rivers, creeks, railroads and inter-urban lines. Drawn and published by Ford Map Company, Indianapolis. Ptd. Scale: 2" to one mi. 42 x 56. Recr. off.

113. CITY OF MUNCIE, 1928. 1 map.

Communication and political map of Muncie, showing date of map, and location of streets, alleys, public places, parks, railroads, traction lines, river, creeks and corporation boundary lines. Drawn by Paul R. White. Black and white. Scale: 1" to 360' 77 x 77. Recr. off.

V. CIRCUIT COURT

The circuit court, established by the Constitution of 1816 and re-established by the Constitution of 1851, consists of one judge elected for a six-year term by the voters of the judicial circuit.¹ Delaware County alone constitutes the forty-sixth judicial circuit.² The official name of the court is "Delaware Circuit Court."³

The judge of the circuit court is commissioned by the governor,⁴ and holds office until his successor is elected and

¹ Const., 1816, art. 5, secs. 1, 3-7. Const., art. 7, secs. 1, 8, 9. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395. Acts 1925, 1929; Burns 4-3220; Baldwin 1258.

² Acts 1885, ch. 27, sec. 3.

³ Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1396.

⁴ Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

qualified.⁵ For three years next before his candidacy for election, the judge must have been duly admitted to practice law in Indiana, and also must have practiced or taught law or acted as an officer of the state or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).⁶ During the term for which he was elected, the judge cannot hold any office of trust or profit under the state, other than a judicial office;⁷ and, while holding the office of judge of the circuit court, the judge must reside within the circuit,⁸ must not hold any other lucrative office,⁹ and must not practice law.¹⁰ He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.¹¹

The judge of the circuit court receives a regular salary of \$4,200 per year payable out of the state treasury. Additional compensation in an amount not exceeding \$2,800 per year, payable out of the county treasury, may be allowed to the judge by the board of commissioners, on petition of 20 resident freeholders of the county, and no appropriation by the county council is required.¹² The compensation of the judge cannot be diminished during his continuance in office.¹³

If the judge is convicted of corruption or other high crime, he may, on information in the name of the state, be removed from office by the supreme court.¹⁴ This is the only method by which the judge may be removed from office.¹⁵

Any vacancy in the office of judge of the circuit court is filled through appointment by the governor. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a

⁵ Const., art. 15, sec. 3.

⁶ Acts 1939; Burns, 1939 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

⁷ Const., art. 7, sec. 16.

⁸ *Ibid.*, sec. 9.

⁹ Const. 1816, art. 11, sec. 13. Const., art. 2, sec. 9.

¹⁰ Acts 1905; Burns 10-3101; Baldwin 2635.

¹¹ Const., 1816, art. 11, sec. 1. Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin

2660. ¹ Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹² Acts 1921; Burns 4-3209; Baldwin 1225.

¹³ Const., art. 7, sec. 13.

¹⁴ *Ibid.*, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

¹⁵ State v. Dearth (1901), 201 Ind. 1, 164 N. E. 489; State *ex rel.* Youngblood v. Warrick

Circuit Court (1935), 208 Ind. 594, 196 N. E. 254. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

judge is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁶

Under the Constitution of 1816 and an act of 1816, the circuit court consisted of a president judge, elected for the circuit by joint ballot of both houses of the general assembly, and two associate judges, elected in the county by the voters thereof.¹⁷ These judges were commissioned by the governor of the state, and held office for the term of seven years.¹⁸ Recess appointments of president judges were made by the governor when the general assembly was not in session.¹⁹ The president alone, in the absence of the associate judges, or any two judges—the president and one associate judge, or two associate judges in the absence of the president—were competent to hold court; but the presence of the president was required in capital punishment cases and cases in chancery.²⁰ The court had general jurisdiction at law and equity.²¹ Acts of January 2, 1822 and February 11, 1825 provided that the two associate judges constitute a court—often called "the probate court"—with power to hear and determine all matters in relation to the settlement of decedents' estates, except where titles of real estate are brought in question.²² Since the adoption of the Constitution of 1851 the circuit court has consisted of one judge elected by the voters of the judicial circuit for a six-year term.²³

When organized, in 1827,²⁴ Delaware County was attached

¹⁶ Const., art. 5, sec. 18. Acts 1881 (Spec. Sess.), Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State *ex rel.* Custer v. Schortemeier (1926), 197 Ind. 507, 151 N. E. 407.

¹⁷ Const. 1816, art. 5, secs. 3, 7. Acts 1816-17, ch. 2, sec. 2. Acts 1817-18 (general), ch. 2, sec. 2. Rev. Laws 1824, ch. 24, sec. 2. Rev. Laws 1831, ch. 22, sec. 2. Rev. Stat. 1838, ch. 23, sec. 2. Rev. Stat. 1843, ch. 38, secs. 1-4.

¹⁸ Const. 1816, art. 5, sec. 4; art. 11, sec. 9.

¹⁹ *Ibid.*, art. 4, sec. 9.

²⁰ *Ibid.*, art. 5, sec. 3.

²¹ Const. 1816, art. 5, sec. 3. Acts 1816-17, ch. 2, secs. 5-7; ch. 3, secs. 2, 3. Acts 1817-18 (general), ch. 2, secs. 5-7; chs. 3, 13. Rev. Laws 1824, ch. 24, secs. 4-6. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23, secs. 3-7, 12. Rev. Stat. 1843, ch. 38, secs. 6-32.

²² Acts 1821-22, ch. 73, sec. 4. Acts 1825, ch. 35, secs. 1-3.

²³ Const., art. 7, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395.

²⁴ Acts 1826-27, ch. 10.

to the third judicial circuit composed of the counties of Allen, Dearborn, Delaware, Fayette, Franklin, Randolph, Ripley, Switzerland, Union, and Wayne.²⁵ In 1830 Delaware County was transferred to the sixth judicial circuit, composed of the counties of Allen, Delaware, Elkhart, Fayette, Henry, Randolph, Rush, Union, and Wayne.²⁶ In 1832 and 1833 the counties of Lagrange and Grant, respectively, were added to this circuit; and in 1833 the counties of Allen, Elkhart, and Lagrange were omitted.²⁷ Blackford County was added to this circuit in 1838.²⁸ In 1839 Delaware County was transferred to the eleventh judicial circuit, composed of the counties of Adams, Blackford, Delaware, Grant, Jay, Randolph, and Wells.²⁹ In 1841 Madison County was added to this circuit, and the counties of Adams and Wells were omitted.³⁰ The counties of Howard and Tipton were added to this circuit in 1844 but were omitted in 1845.³¹ In 1850 Hamilton County was added to this circuit.³² In 1852 Delaware County was transferred to the seventh judicial circuit composed of the counties of Blackford, Delaware, Grant, Henry, Jay, Randolph, and Wayne.³³ Grant County was omitted from this circuit in 1853;³⁴ and the counties of Henry, Jay, Randolph, and Wayne were omitted in 1855, leaving only the counties of Blackford and Delaware in this circuit.³⁵ In 1859 the counties of Hamilton, Hancock, Howard, Madison, and Tipton were added to this circuit.³⁶ An act of 1867 provided that the counties of Delaware, Grant, Hancock, and Henry should constitute the seventh judicial circuit.³⁷ In 1873 Delaware County was transferred to the twenty-fifth judicial circuit, composed of the counties of Delaware and Randolph;³⁸ and in 1885 was transferred to the

²⁵ Rev. Laws 1824, ch. 26, sec. 1. Acts 1826-27, ch. 18, sec. 4. Acts 1827-28, ch. 18, sec. 5.

²⁶ Acts 1829-30, ch. 23, sec. 15; ch. 28 (first act), sec. 1. Rev. Laws 1831, ch. 23, sec. 1.

²⁷ Acts 1831-32, ch. 117, sec. 6. Acts 1832-33, ch. 3, sec. 1.

²⁸ Rev. Stat. 1838, ch. 23 (third act), sec. 4.

²⁹ Acts 1838-39 (general), ch. 2, sec. 1.

³⁰ Acts 1840-41 (general), ch. 25, sec. 1. Acts 1841-42 (general), ch. 28, sec. 3.

³¹ Acts 1843-44 (general), ch. 3, secs. 12, 13. Acts 1844-45 (general), ch. 44, sec. 1.

³² Acts 1849-50 (general), ch. 43, sec. 1.

³³ Acts 1851-52, ch. 21, sec. 7.

³⁴ Acts 1853, ch. 23, sec. 1.

³⁵ Acts 1855, ch. 25, sec. 7.

³⁶ Acts 1859, ch. 28, sec. 1.

³⁷ Acts 1867, ch. 19, sec. 1.

³⁸ Acts 1873, ch. 29, sec. 26.

forty-sixth judicial circuit, composed of Delaware County alone.³⁹ An act of 1895, which has not been modified or repealed, provides for terms of court in Delaware County beginning on the first Monday in January, April, and September, each term lasting so long as the business thereof requires.⁴⁰ Many laws were enacted by the general assembly before 1895 for the purpose of regulating the commencement and duration of terms of court in Delaware County.⁴¹

A probate court, consisting of one judge, was established in Delaware County in 1829 under an act of that year. It had exclusive original jurisdiction over probate of wills, settlement of decedents' estates, and guardianships; and had original jurisdiction, concurrent with the circuit court, over dower proceedings, partition proceedings, and actions concerning heirs, devisees, executors, administrators, and guardians. The judge was elected for a seven-year term by the voters of the county.⁴² The court held four terms each year, commencing in February, May, August, and November, each term lasting six days.⁴³ This court was abolished in 1853 and its jurisdiction was transferred to the common pleas court.⁴⁴

A common pleas court, consisting of one judge, was established in Delaware County in 1853. The judge was elected for a four-year term by the voters of the common pleas district, composed of the counties of Blackford, Delaware, and Grant.⁴⁵ Originally the common pleas court held four terms of the

³⁹ Acts 1885, ch. 27, sec. 2.

⁴⁰ Acts 1895, ch. 70, sec. 1.

⁴¹ Acts 1827-28, ch. 18, sec. 5. Acts 1829-30, ch. 28 (second act), sec. 6. Rev. Laws 1831, ch. 23, sec. 7. Acts 1831-32, ch. 157, sec. 4. Acts 1832-33, ch. 67, sec. 5. Acts 1833-34, ch. 31, sec. 4. Acts 1834-35 (general), ch. 34, sec. 1. Rev. Stat. 1838, ch. 23 (third act), sec. 4. Acts 1838-39 (general), ch. 2, sec. 12. Acts 1839-40 (general), ch. 43, sec. 1. Acts 1842-43, (general), ch. 6, sec. 1. Rev. Stat. 1843, ch. 38, secs. 21-23. Acts 1846-47 (general), ch. 81, sec. 1. Acts 1848-49 (general), ch. 40, sec. 1. Acts 1949-50 (general), ch. 43, sec. 1. Acts 1851-52, ch. 22, sec. 1. Acts 1857, ch. 18, sec. 1. Acts 1859, ch. 28, secs. 2, 3. Acts 1861, ch. 18, sec. 1. Acts 1865 (Spec. Sess.), ch. 46, sec. 1. Acts 1867, ch. 19, secs. 1, 2. Acts 1871, ch. 27, secs. 1, 2. Acts 1873, ch. 29, sec. 64. Acts 1885, ch. 27, sec. 4.

⁴² Const. 1816, art. 5, sec. 4. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1-12.

⁴³ Acts 1831-32, ch. 159, sec. 1. Acts 1834-35 (general), ch. 41, sec. 1. Rev. Stat. 1838, ch. 24, sec. 68. Rev. Stat. 1843, ch. 39, sec. 40. Acts 1846-47 (general), ch. 46, sec. 1.

⁴⁴ 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

⁴⁵ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 1, 3, p. 16. Jones v. Cavins (1853), 4 Ind. 305.

court in the county each year, beginning in January, April, July, and October, each term lasting two weeks.⁴⁶ An act of 1855 authorized special terms in the county for the completion of any business scheduled for regular terms and remaining unfinished at adjournment of the term.⁴⁷ An act of March 1, 1859 provided that the judicial district be composed of the counties of Blackford, Delaware, Jay, and Randolph.⁴⁸ An act of March 5, 1859, effective October 1, 1860, provided for three terms of court in the county each year, beginning in February, June, and October, each term lasting two weeks.⁴⁹ An act of 1869 enlarged the terms to three weeks each.⁵⁰ The common pleas court had exclusive original jurisdiction over probate of wills, settlement of decedents' estates, and guardianships; and had original jurisdiction at law and in equity, concurrent with the circuit court, over other matters (except felonies punishable by death, slander, libel, breach of marriage contract, titles to real estate, actions on bonds of state and county officers, and actions to recover \$1,000 or more, of which the circuit court has exclusive original jurisdiction).⁵¹ The common pleas court was abolished in 1873, and its jurisdiction was transferred to the circuit court.⁵²

The constitution provides for tribunals of conciliation with such powers and duties as may be prescribed by law, but without power to render an enforceable judgment in the absence of agreement of the parties to abide the judgment of such tribunal.⁵³ Accordingly, the general assembly, by an act of 1852 which became effective in 1853, established in the county a court of conciliation, to be held by the judge of the common pleas court. It had jurisdiction of claims and controversies submitted to it for the purpose of effecting a compromise or for determination. In cases of libel, slander, assault and

⁴⁶ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 29, 30, p. 21. Acts 1853, ch. 33, sec. 1. Acts 1855, ch. 27, sec. 19. Acts 1859, ch. 37, sec. 2; ch. 51, sec. 3.

⁴⁷ Acts 1855, ch. 27, sec. 94.

⁴⁸ Acts 1859, ch. 51, sec. 1.

This district, composed of said counties, was officially designated "the eighteenth district." Acts 1861, ch. 28, sec. 1.

⁴⁹ Acts 1859, ch. 47, secs. 18, 23. Acts 1861 (Spec. Sess.), ch. 22, sec. 2.

⁵⁰ Acts 1869, ch. 20, sec. 1.

⁵¹ 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 11, 12, 14, 17, 21, 23.

⁵² Acts 1873; Burns 4-328; Baldwin 1417.

⁵³ Const., art. 7, sec. 19.

battery, false imprisonment, and malicious prosecution, the complaining party could have the opposite party served with a notice requiring him to appear before the court. Hearings were private and informal. Controversies submitted by both parties to the court for determination were determined according to right and conscience without regard to technical rules. The judge was required to keep a book containing a memorandum of proceedings and the judgment.⁵⁴ This court was abolished in 1865.⁵⁵

A superior court was established in the county in 1909, and is still in existence. It is discussed in a separate essay in this book.⁵⁶

The circuit court has original jurisdiction of all criminal cases under the state laws. The circuit court and superior court have concurrent original jurisdiction of all civil cases at law and in equity, under the state laws,⁵⁷ except that the circuit court has exclusive original jurisdiction of juvenile matters, probate of wills, and administration of estates of decedents. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.⁵⁸

The circuit court and superior court have concurrent appellate jurisdiction to review decisions—the superior court being confined to civil matters—⁵⁹ of justices of the peace,⁶⁰ city courts,⁶¹ board of commissioners,⁶² board of review fixing value of property for taxation,⁶³ taxing authorities de-

⁵⁴ 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 1-3, 5-8, 12, 13, 18, 20. Jones v. Cavins (1853), 4 Ind. 305.

⁵⁵ Acts 1865 (Spec. Sess.), ch. 57.

⁵⁶ Acts 1909, ch. 35, secs. 8-19. Acts 1929, ch. 244 (p. 665 of Acts 1931).

⁵⁷ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1909, ch. 35, sec. 9. Acts 1929; Burns 4-704; Baldwin 1476.

⁵⁸ *Ibid.* Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

⁵⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1909, ch. 35, sec. 9. Acts 1929; Burns 4-704; Baldwin 1476.

⁶⁰ 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

⁶¹ Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

⁶² Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. State *ex rel.* Sink v. Circuit Court (1938),--Ind.--, 15 N. E. (2d) 624.

⁶³ Acts 1927; Burns 64-1020; Baldwin 15686.

termining that property is taxable,⁶⁴ board of public works or board of park commissioners of any city in the county (or city council performing such functions),⁶⁵ and other inferior tribunals when no express direction is given as to the court to which the appeal lies.⁶⁶

The circuit court and superior court have concurrent original jurisdiction of naturalization proceedings under the federal laws.⁶⁷

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to issue all process;⁶⁸ and to adopt rules for conducting its business.⁶⁹ The circuit court has power to transfer causes to the superior court; the superior court has power to transfer causes to the circuit court; and such transferred causes may proceed as if originally commenced in the court to which they were transferred.⁷⁰ The judge of the circuit court is a conservator of the peace throughout his judicial circuit.⁷¹

The chief officers of the circuit court are the sheriff, probation officer, prosecuting attorney, and clerk of the circuit court. The sheriff, in person or by deputy, attends the circuit court, preserves order therein, and serves all processes directed to him therefrom.⁷² The probation officer (appointed by the circuit judge for an indefinite term) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.⁷³ The prosecuting attorney prosecutes the pleas of the state in the circuit court.⁷⁴ The clerk of the circuit court, in person or by deputy, attends the circuit court, per-

⁶⁴ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

⁶⁵ Acts 1933; Burns 48-4501; Baldwin 11576.

⁶⁶ Hamilton v. Fort Wayne (1880), 73 Ind. 1.

⁶⁷ Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 1824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:69. Acts of Congress 1906, 1911, 1913; *U. S. C.* title 8, sec. 357.

⁶⁸ 2 Rev. Stat. 1852; Burns 4-307; Baldwin 1400.

⁶⁹ 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

⁷⁰ Acts 1905; Burns 4-304; Baldwin 1419 note. Acts 1911; Burns 4-401; Baldwin 1419. Acts 1929; Burns 4-708; Baldwin 1480.

⁷¹ Const. 1816, art. 5, sec. 5. Const., art. 7, sec. 15.

⁷² 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

⁷³ Acts 1927; Burns 9-2212, 9-2213; Baldwin 2463, 2364.

⁷⁴ 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456.

forms the customary duties of clerk during trials, draws up each days, proceedings at full length in the proper order book which is signed by the circuit judge, and enters a complete record of causes after completion thereof.⁷⁵ All causes are filed in the office of the clerk of the circuit court, and numbered in consecutive order as filed.⁷⁶ The clerk is charged by statute with the duty of keeping and preserving the official records of the court.⁷⁷

CIVIL CAUSES

(See also entries 188, 190, 191, 193, 194)

ENTRY OF CAUSES

114. ENTRY DOCKET, 1860-. 45 vols. (1-45).

Record of filing of actions in civil and criminal causes, showing date of filing, names of plaintiff, defendant and attorneys, nature of action, and cause number. 1860-86, arr. chron. by dates of filing; 1887-, arr. num. by cause nos. 1860-86, no index; 1887-, indexed alph. by names of plaintiffs and defendants. Hdw. 300 pp. 18 x 12 x 4. 41 vols., 1860-Jan. 15, 1938, clk. rec. rm. 1; 4 vols., Jan. 16, 1938-, cir. ct. rm.

115. ENTRY DOCKET, 1853-73. 2 vols. (1, 2).

Record of filing of actions in civil and criminal causes in common pleas court, showing date of filing, cause number, nature of action, names of plaintiff, defendant and attorneys, and volume and page reference to Order Book, Common Pleas, entry 135, and Judgment Docket, entry 137. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 250 pp. 16 x 12 x 2. Clk. rec. rm. 1.

ORIGINAL DOCUMENTS

116. GENERAL INDEX TO FILES, CIVIL, 1827-. 4 vols.

General index to [Circuit Court Causes, Civil], entry 117, and [Superior Court Causes], 1909-, entry 196, showing cause number, names of plaintiff, defendant and court, and file box and packet reference. Arr. alph. by names of plaintiff and defendants. Hdw. 400 pp. 18 x 15 x 3. Clk. rec. rm. 1.

⁷⁵ 2 Rev. Stat. 1852, Acts 1885 (Spec. Sess.), 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁷⁶ Acts 1881 (Spec. Sess.), Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁷⁷ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

117. [CIRCUIT COURT CAUSES, CIVIL], 1827-. 1105 f. b. (1-1034 and 21 f. b. not labelled).

Original documents filed in civil causes, including affidavits, subpoenas, decrees, complaints, reports, demands, summons, change of venue, cross complaints and judgments, showing date of filing, cause and packet numbers, nature of cause, names of plaintiff, defendant and attorneys, proceedings, and disposition of cause. Arr. num. by packet nos. For index, see entry 116. Hdw. and typed. 11 x 5 x 14. 1034 f. b., 1827-, clk. vt.; 21 f. b., 1938-, cir. ct. rm.

SANITY

118. INSANE RECORD, 1849-1927. 12 vols. (1 vol. not labelled, 1, 1 vol. not labelled, 3, 4, 4-7, 7-9). 1928- in Order Book, Civil, entry 134.

Record of petitions for commitment of persons to institutions for the insane, showing dates of petition, arrest, examination, commitment and release, name, detailed description and complete family history of patient, names of petitioner and examining physician, examiner's report, sheriff's fees, court costs, and return made. Arr. chron. by dates of petitions. Indexed alph. by names of patients. Hdw. 600 pp. 18 x 14 x 4. 1 vol., 1849-69, attic stor. rm. 5; 11 vols., 1865-1927, clk. vt.

119. INSANITY, 1848-. 12 f. b. (dated).

Original instruments pertaining to insanity causes, including:

- i. Petitions for commitment of the insane to state hospitals, showing dates of petition and filing, names of petitioner and patient, and reason for request of commitment.
- ii. Physicians' recommendations for commitment of patients to state hospitals, showing dates of complaint, examination and filing, names of physician, patient and witnesses, and results of examination.

Arr. chron. by dates of filing. No index. Hdw. and typed. 10 x 5 x 14. Clk. rec. rm. 1.

120. EPILEPTICS, 1909-. 4 f. b.

Original instruments pertaining to commitment of epileptics to state hospital, including:

- i. Application for admittance to Indiana Village for Epileptics, showing date of application and filing, names and addresses of petitioner, patient and parents, and family and epileptic history of patient.
- ii. Physicians' certificates of examination of patients, showing date of examination and filing, names of

physician and patient, personal history of patient, and results of examination.

1115 Court orders of commitment to state hospital, showing date of order and filing, names of petitioner, patient and judge, and authorization of commitment. Arr. chron. by dates of filing. No index. Hdw. 10 x 5 x 14. Clk. rec. rm. 1.

NATURALIZATION

121. DECLARATION OF INTENTION, 1851-. 8 vols. (1, 2 and 6 vols. not labelled). Title varies: Declaration Record, 1851-1906, 2 vols.

Declarations of intention of aliens to become U. S. citizens, showing dates of declaration, birth, embarkation and filing, names of alien, native country and ports of embarkation and entry, last foreign address, and family history, physical description and occupation of applicant. Also contains: Petitions for naturalization in Petition and Record, 1930-, entry 122. Arr. chron. by dates of filing. 1851-June 1929, indexed alph. by names of aliens; July 1929-, no index. 1851-June 25, 1929, hdw.; June 26, 1929-, typed. 220 pp. 14 x 10 x 1½. 2 vols., 1851-1906, clk. vt.; 6 vols., 1907-, clk. off.

122. PETITION AND RECORD, 1907-29. 2 vols. Petitions, 1930- in Declaration of Intention, entry 121.

Record of aliens petitioning for U. S. citizenship, showing dates of declaration, petition, birth, arrival, embarkation and filing, names of alien, native country, ports of embarkation and arrival, witnesses and vessel, and last foreign address, family history, physical description and occupation of alien. Also contains: [Citizenship Granted], 1907-29, entry 123; Certificate of Naturalization [Stubs], Sept. 8, 1927-29, entry 124. Arr. chron. by dates of filing. Indexed alph. by names of aliens. Hdw. and typed. 200 pp. 18 x 12 x 1½. Clk. off.

123. [CITIZENSHIP GRANTED], 1930-. 1 vol. 1907-29 in Petition and Record, entry 122.

Record of court orders of grant or denial of citizenship, showing date of order, name, age and address of alien, action of court on petitioner's prayer for change of name, cause for denial, and line and list numbers. Arr. num. by list nos. No index. Typed. 50 pp. 11 x 9 x ½. Clk. off.

124. CERTIFICATE OF NATURALIZATION [Stubs], 1907-Sept. 7, 1927. 8 vols. Sept. 8, 1927-29 in Petition and Record, entry 122. Discontinued.

Stubs of naturalization certificates granted by court, showing

dates of issue and court order, certificate and declaration of intention numbers, names of petitioner, court, country and family, and volume and page reference to Petition and Record, entry 122. Arr. num. by certificate nos. No index. Hdw. 10 pp. 10 x 15½ x ½. Clk. off.

RECEIVERSHIP

125. RECORD OF RECEIVERSHIPS AND ASSIGNMENTS, 1859-99, 1913-25. 4 vols. (1-3 and 1 vol. not labelled). Title varies: Record of Assignments, 1859-99, 3 vols. Record of assignments and inventories in bankruptcy, insolvency and receivership causes, showing dates of assignment, oath, appointment of trustee and approval, names of assignee, appraiser and trustee, description of real and personal property, amounts of claim and allowance, and volume and page reference to Entry Docket, entry 114, and Order Book, Civil entry 134. Arr. chron. by dates of assignments. Indexed alph. by names of assignees. Hdw. 350 pp. 16 x 12 x 3. Clk. rec. rm. 2.

126. ASSETS AND LIABILITIES RECORD, 1911-May 10, 1928. 1 vol. Discontinued.

Record of assets and liabilities of organizations and filing of claims in receivership causes, showing cause number, date of filing, names of court, individual, firm, corporation or other organization, receiver and appraisers, and amounts of assets, liabilities and claims. Arr. num. by cause nos. Indexed alph. by names of firms or individuals. Hdw. 575 pp. 16 x 11 x 2. Clk. rec. rm. 1.

MINUTES

127. ISSUE DOCKET AND FEE BOOK, 1913-. 17 vols.

Record of causes set for trial and fees assessed in civil and criminal actions, showing cause number, court term, date of trial, kind of action, names of plaintiff and defendant, minutes of proceedings, amount of fees, and volume and page reference to Order Book, Civil, entry 134. This is a combination of two records formerly kept separately: Issue Docket, entry 128; Fee Book, entry 191. Arr. chron. by dates of court terms. No index. Hdw. 1000 pp. 14 x 18 x 6. Clk. off.

128. ISSUE DOCKET, 1841-1902, 1908-12. 48 vols. (2-40, 42, 44, 47, 52, 54-56, 58, 59). 1913- in Issue Docket and Fee Book, entry 127.

Record of civil and criminal causes set for trial, showing court term, date of trial, names of plaintiff, defendant and

attorneys, minutes of proceedings, and number and nature of cause. Arr. chron. by dates of court terms. No index. 500 pp. 22 x 18 x 3. 40 vols., 1841-1902, attic stor. rm. 6; 8 vols., 1903-12, clk. rec. rm. 1.

129. ISSUE DOCKET, 1853-57, 1864-73. 6 vols. (1 vol. not labelled, 3-7).

Record of civil and criminal causes of common pleas court set for trial, showing date of filing, cause number, nature of action, names of plaintiff, defendant, attorneys and witnesses, minutes of proceedings, and sheriff's return. Arr. chron. by dates of filing. No index. Hdw. 300 pp. 16 x 12 x 2. Attic stor. rm. 6.

130. TRANSFER CIRCUIT COURT DOCKET, 1929-. 3 vols.

Record of causes pending in civil, criminal and probate actions, showing date of filing, court term, names of plaintiff, defendant and attorneys, number and nature of cause, and minutes of proceedings. Arr. chron. by dates of filing. No index. 1000 pp. 14 x 18 x 6. Cir. ct. rm.

131. TRANSFER CIRCUIT COURT DOCKET, 1913-. 27 vols.

Record of actions and proceedings in disposed of civil, criminal and probate causes, showing cause number, date of action, term of court, names of plaintiff, defendant and attorneys, nature of action, minutes of proceedings, and disposition. This is a combination of three records formerly kept separately: Court Docket, entry 132; Court Docket, State, entry 154; Probate Court Docket, entry 172. Arr. chron. by dates of actions. No index. Hdw. 1000 pp. 14 x 18 x 6. 10 vols., 1913-37, clk. rec. rm. 1; 3 vols., 1938-, clk. off.; 10 vols., 1915-34, law library; 4 vols., 1927-, cir. ct. rm.

132. COURT DOCKET, 1828-1912. 59 vols. (labelling varies). 1913- in Transfer Circuit Court Docket, entry 131.

Minutes of actions and proceedings in civil and criminal causes, showing date of filing, cause number, names of plaintiff, defendant and attorneys, nature of cause, proceedings of court and disposition of cause. Also contains: Probate Court Docket, 1840-52, 1875-81, entry 172. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 16 x 12 x 3. 32 vols., 1828-Mar. 1897, attic stor. rm. 6; 27 vols., Apr. 1897-1912, clk. rec. rm. 2.

133. COURT DOCKET, 1853-73. 7 vols. (1-7).

Minutes of actions and proceedings in civil and criminal causes of common pleas court, showing date of filing, court term, cause number, nature of action, names of plaintiff, defendant and attorneys, proceedings of court, and disposition

of cause. Also contains: Probate Court Docket, 1853-63, entry 172. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 500 pp. 16 12 x 2. Attic stor. rm. 6.

ORDERS

134. ORDER BOOK, CIVIL, 1828-. 162 vols. (1-24, 26-163). Record of orders and proceedings in civil and criminal causes, showing date of action, term of court, names of plaintiff and defendant, cause number, minutes of proceedings, and action taken by court. Also contains: Insane Record, 1928-, entry 113; Complete Record, 1930-, entry 148; Jurors' Docket, Circuit Court, 1917-, entry 190. Arr. chron. by dates of court terms. Indexed alph. by names of defendants. 1828-Mar. 11, 1905, hdw.; Mar. 13, 1905-, typed. 600 pp. 18 x 10 x 3. Clk. rec. rm. 1.

135. ORDER BOOK, COMMON PLEAS, 1853-73. 9 vols. (1A-3A, 4-9).

Record of actions and proceedings in civil and criminal causes of common pleas court, showing cause number, date of action, names of plaintiff and defendant, nature of action, court orders, and disposition. Arr. chron. by dates of actions. Indexed alph. by names of defendants. Hdw. 600 pp. 18 x 12 x 4. Clk. rec. rm. 1.

JUDGMENTS

136. JUDGMENT DOCKET, 1841-. 22 vols. (1-22).

Record of judgments rendered in civil, criminal and probate causes in circuit court, 1841-, and civil causes in Superior Court, 1909-. showing dates of judgment and satisfaction, names of plaintiff, defendant, attorney and sureties, amounts of judgment and satisfaction, and volume and page reference to Order Book, Civil, entry 134; Execution Docket, entry 139; Superior Court Order Book, entry 200. Also contains: Support Docket, 1841-1917, entry 71. Arr. chron. by dates of judgments. Indexed alph. by names of defendants. Hdw. 300 pp. 18 x 12 x 3. 16 vols., 1841-1927, clk. rec. rm. 1; 6 vols., 1928-. clk. off.

137. JUDGMENT DOCKET, 1853-73. 3 vols. (1-3).

Record of judgments rendered in civil, criminal and probate causes in common pleas court, showing date of judgment, amounts of judgment and costs, names of plaintiff, defendant and attorney, date of satisfaction, and volume and page reference to Order Book, entry 135; Execution Docket, entry 140.

Arr. chron. by dates of judgments. Indexed alph. by names of defendants. Hdw. 296 pp. 18 x 12 x 3. Clk. vt.

EXECUTIONS (see also entries 207-210)

138. PRAECIPE BOOK, 1876-1900, 1934-. 5 vols. (2 vols. not labelled, 7-9). Title varies: Execution Record, 1891-1900, 1 vol.

Record of orders to clerk to issue writs for execution on judgments, showing dates of order and judgment, cause number, names of plaintiff, defendant and attorneys, amount of judgment, and volume and page reference to Order Book Civil, entry 134. Arr. chron. by dates of orders. No index. Hdw. 300 pp. 14 x 8 x 2. 1 vol., 1876-90, attic stor. rm. 5; 1 vol., 1891-1900, clk. vt.; 3 vols., 1934-, clk. off.

139. EXECUTION DOCKET, 1842-. 13 vols. (1-13).

Record of execution of court decrees for satisfaction of judgments in civil, criminal and probate causes in circuit court, 1842-, and civil causes in superior court, 1909-, showing cause number, dates of judgment and execution, names of plaintiff and defendant, amounts of judgment and cost, and sheriff's return. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 300 pp. 18 x 14 x 3. Clk. vt.

140. EXECUTION DOCKET, 1853-73. 3 vols. (1-3).

Record of executions of court decrees for satisfaction of judgments in civil, criminal and probate causes of common pleas court, showing same information as in entry 139. Arr. num. by cause nos. No index. Hdw. 288 pp. 18 x 12 x 3. Clk. vt.

141. EXECUTONS, 1833-. 49 f. b.

Writs for execution to satisfy judgments, showing cause number, dates of judgment, sale and sheriff's return, names of plaintiff and defendant, amounts of judgment, interest and cost, and volume and page reference to Order Book, Civil, entry 134 and Execution Docket, entry 139. Arr. chron. by dates of writs. No index. Hdw. and typed. 11 x 5 x 14. Clk. rec. rm. 1.

142. TRANSCRIPT TO BIND REAL ESTATE, 1839-. 12 f. b. Transcripts to bind real estate for judgments rendered in justice of peace courts, transferred to circuit court for execution, showing dates of judgment, transcript and filing, names of plaintiff, defendant and judgment debtor, amounts of judgment and costs, proceedings and decision of court, and volume and page reference to Order Book, Civil, entry 134. Arr. chron. by dates of filing. No index. 1839-1915, hdw.; 1916-, typed. 14 x 5 x 10. 11 f. b., 1839-1930, 1932-, clk. rec. rm. 1; 1 f. b., 1931, clk. vt.

143. LIS PENDENS RECORD [Complaints], 1877-. 2 vols. (1, 2).

Record of complaints filed against owners of property which may be subject to levy for satisfaction of judgments, showing cause number, date of filing, names of plaintiff, defendant and court, and location and description of property. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs and defendants. Hdw. 500 pp. 18 x 14 x 4. Clk. rec. rm. 1.

144. LIS PENDENS RECORD [Notice of Attachment], 1879-. 1 vol.

Record of sheriff's notices of attachment or levy on property to satisfy judgments, showing cause number, dates of judgment, notice and filing, names of plaintiff, defendant and court, amount of judgment, and location and description of property. Arr. chron. by dates of filing. Indexed alph. by names of defendants. Hdw. 500 pp. 18 x 14 x 4. Clk. rec. rm. 1.

145. LIS PENDENS RECORD, SHERIFFS' CERTIFICATE OF SALES, 1881-. 3 vols. (3, 3A, 4A).

Record of certificates of sale for property sold to satisfy judgments, showing cause number, dates of judgment, sale and certificate, names of plaintiff, defendant and purchaser, location and description of property, and amounts of judgment, interest, cost and sale. Arr. chron. by dates of certificates. Indexed alph. by names of plaintiffs. Hdw. 500 pp. 18 x 14 x 3. Clk. rec. rm. 1.

146. LIS PENDENS RECORD, REDEMPTION, 1884-. 1 vol.

Record of certificates of redemption of property sold to satisfy judgments, showing cause number, dates of judgment, sale, redemption and certificate, names of plaintiff, defendant, court and redeemer, location and description of property, amount of judgment, and volume and page reference to Execution Docket, entry 139 and Lis Pendens Record, Sheriffs' Certificate of Sales, entry 145. Arr. chron. by dates of redemptions. Indexed alph. by names of defendants. Hdw. 500 pp. 18 x 12 x 4. Clk. rec. rm. 1.

147. [INCOME TAX WARRANTS], 1934-. In [Clerk's Miscellaneous Papers], entry 44.

Tax warrants issued by state treasurer to clerk showing dates of warrant, receipt and return, warrant and file numbers, name and address of defendant, and amounts of tax, interest, penalty, and total due.

COMPLETE TRANSCRIPTS

148. COMPLETE RECORD, 1828-1929. 16 vols. (1-16). 1930- in Order Book, Civil, entry 134.

Complete transcripts of actions and proceedings in civil causes involving real estate, showing dates of transcript, trial, issuance of summons and return, number and nature of cause, names of plaintiff, defendant and attorneys, proceedings of court, and disposition of cause. Also contains: Complete Record Probate, 1828-44, 1870-1929, entry 177. Arr. chron. by dates of transcripts. Indexed alph. by names of defendants. 1828-Sept. 1914, hdw.; Oct. 1914-29, typed. 600 pp. 18 x 14 x 4. Clk. vt.

CRIMINAL CAUSES

- (See also entries 114, 115, 127-137, 139, 183-185, 188, 190, 191, 193, 194)

ORIGINAL DOCUMENTS

149. [CRIMINAL CAUSES], 1839-. 223 f. b. (X1-X221 and 2 f. b. not labelled).

Original documents filed in criminal actions, including affidavits, indictments, warrants, subpoenas, pleas, motions, and demurrers, showing cause and packet numbers, names of defendant, witnesses and attorneys, court term, dates of crime, affidavit, indictment, action and conviction, and nature of crime. Arr. num. by packet nos. For index, see entry 150. Hdw. and typed. 11 x 5 x 14. 221 f. b., 1839-1938, clk. vt.; 2 f. b., 1938-, cir. ct. rm.

150. GENERAL INDEX TO FILES, STATE CASES, 1839-. 2 vols. Index to [Criminal Causes], entry 149, showing name of defendant and cause, file box and packet numbers. Arr. alph. by names of defendants. Hdw. 600 pp. 15 x 12 x 3. Clk. vt.

151. COMMON PLEAS CASES, CRIMINAL, 1853-73. 13 f. b. Original documents filed in criminal actions in common pleas court, showing same information as in entry 149. No obvious arr. No index. Hdw. and typed. 11 x 5 x 14. Clk. vt.

INDICTMENTS

152. INDICTMENT RECORD, 1853-. 13 vols. (1, 3 vols. not labelled, 4-6, 8-13).

Record of grand jury indictments, showing dates of offense, indictment and recording, nature of offense, names of defendant, plaintiff and witnesses, amount of bail, term of court, and signature of jury foreman. Arr. chron. by dates of

recording. Indexed alph. by names of defendants. 1853-Mar. 15, 1915. Mar. 29, 1923-, hdw.; Mar. 16, 1915-Mar. 28, 1923, typed 600 pp. 20 x 14 x 5. 7 vols., 1853-Mar. 1888, attic stor. rm. 5; 6 vols., Apr. 1888-, clk. rec. rm. 1.

BONDS (see also entry 39iii)

153. RECOGNIZANCE BOND RECORD, 1879-. 3 vols. (25, 1, 2). Title varies: Order Book, Recognizance Bond Record, 1879-1919, 1 vol. 1834-73 in Miscellaneous Bond Record, entry 33.

Record of bonds furnished by defendants to insure appearance in court for trial in criminal causes, showing dates of bond, approval and appearance, names of defendant, court and sureties, nature of charge, and amount of bond, Arr. chron. by dates of bonds. Indexed alph. by names of defendants. Hdw. 600 pp. 18 x 12 x 4. Clk. vt.

MINUTES

154. COURT DOCKET, STATE, 1906-12. 3 vols. (1-3). 1913- in Transfer Circuit Court Docket, entry 131.

Minutes of actions and proceedings in criminal causes, showing cause number, date of action, names of defendant, witnesses and attorneys, nature of charge, proceedings of court, and disposition. Arr. num. by cause nos. No index. Hdw. 600 pp. 16 x 12 x 3. Attic stor. rm. 6.

PROBATE CAUSES

(See also entries 130, 131, 136, 137, 139, 140, 192, 193)

ENTRY OF CAUSES

155. ESTATE, ENTRY, CLAIM AND ALLOWANCE DOCKET AND FEE BOOK, 1913-. 17 vols. (10-26).

Record of filing of actions and claims and fees assessed in estate causes, showing dates of decedent's death, filing, claim and allowance, names of deceased, legatees, executor or administrator, appraisers, sureties and claimants, amounts of bond, fees and allowance, location, description and appraised value of estate, and volume and page reference to Will Record, entry 162; Sales Bill Record, entry 171; Probate Order Book, entry 173. This is a combination of two records formerly kept separately: Entry, Claim, and Allowance Docket of Estates, entry 156 and estate fees in Fee Book, Probate, entry 192. Arr. chron. by dates of filing. Indexed alph. by names of deceased. Hdw. 600 pp. 22 x 14 x 4. 8 vols., 1913-Oct. 1928, clk. rec. rm. 2; 9 vols., Nov. 1928-, clk. off.

156. ENTRY, CLAIM, AND ALLOWANCE DOCKET OF ESTATES, 1868-1912. 9 vols. (1-9). 1913 - in Estate, Entry, Claim and Allowance Docket and Fee Book, entry 155.

Record of filing of actions and claims and allowances made in estate causes, showing dates of filing, claim, allowance and decedent's death, names of estate, legatees, executor or administrator, sureties and claimants, amounts of executor's or administrator's bond, claim and allowance, and location, description and appraised value of estate. Arr. chron. by dates of filing. Indexed alph. by names of estates. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm. 2.

157. GUARDIANSHIP DOCKET AND FEE BOOK, 1913-. 4 vols. (4-7)

Record of filing of actions and fees assessed in guardianship causes, showing cause number, dates of filing and appointment of guardian, names of ward, guardian and sureties, amount of guardian's bond, amount and nature of fee, name of payer, and volume and page reference to Probate Order Book, entry 173. This is a combination of two records formerly kept separately: Guardianship Docket, entry 158 and guardianship fees in Fee Book, Probate, entry 192. Arr. chron. by dates of filing. Indexed alph. by names of wards. Hdw. 290 pp. 18 x 12 x 2. Clk. off.

158. GUARDIANSHIP DOCKET, 1834-1912. 3 vols. (1-3). 1913 - in Guardianship Docket and Fee Book, entry 157.

Record of filing of actions in guardianship causes, showing cause number, dates of filing and appointment of guardian, names of ward, guardian and sureties, and amount of guardians' bond. Arr. chron. by dates of filing. Indexed alph. by names of wards. Hdw. 300 pp. 18 x 12 x 2. 1 vol., 1834-Nov. 10, 1894, clk. vt.; 2 vols., Nov. 11, 1894-1912, clk. rec. rm. 2.

159. APPEARANCE DOCKET, 1853-81, 1883-97, 1901-7. 5 vols. (1, 3 and 3 vols. not labelled). Discontinued.

Record of filing of claims against estates, showing dates of claim, filing and allowance or rejection, nature and amount of claim, names of estate, administrator and claimant, and receipt of satisfaction. Arr. chron. by dates of filing. Indexed alph. by names of estates. Hdw. 250 pp. 18 x 12 x 3. 1 vol., 1853-70, attic stor. rm. 6; 1 vol., 1871-81, attic stor. rm. 5; 1 vol., 1883-91, clk. vt.; 2 vols., 1892-97, 1901-7, attic stor. rm. 3.

ORIGINAL DOCUMENTS

160. PROBATE CAUSES, 1836-. 812 f. b. (01-0740 and 72 f. b. not labelled).

Original documents filed in estate and guardianship causes, including letters of appointment of administrators, executors and guardians, inventories of property, reports of appraisers, wills, petitions to sell real property, administrators', executors' and guardians' bonds, proofs of publication, and claims, showing cause and packet numbers, names of testator, executor, estate, administrator, ward, guardian, heirs and attorneys, amounts of inventory, appraisement and bonds, disposition of cause, and volume and page reference to Probate Order Book, entry 173. Arr. num. by packet nos. For index, see entry 161. 1836-1900, hdw.; 1901-, hdw. and typed. 11 x 5 x 14. 782 f. b., 1836-, clk. off.; 30 f. b., 1937-, cir. ct. rm.

161. GENERAL INDEX TO FILES, PROBATE CASES, 1836-. 2 vols. Index to Probate Causes, entry 160, showing name of estate or guardianship, cause, file box and packet numbers, and volume and page reference to recording. Arr. alph. by names of estates and guardianships. Hdw. 200 pp. 17 x 14 x 3. Clk. rec. rm. 1.

WILLS (see also entry 74ii)

162. WILL RECORD, 1830-. 15 vols. (1-15).

Transcripts of wills filed for probate, showing cause number, dates of will and filing, names of testator, heirs, witnesses and executor, amounts of estate and bequests, and location and description of property. Arr. chron. by dates of filing. Indexed alph. by names of testators. 1830-Aug. 23, 1929, hdw.; Aug. 24, 1929-, typed. 600 pp. 18 x 14 x 4. Clk. rec. rm. 1.

BONDS

163. ADMINISTRATORS' BOND RECORD, June 1852-. 8 vols. (1-8). 1847-May 1852 in Administrators' and Executors' Bonds, Oaths and Letters, entry 165.

Record of letters of appointment, oaths administered, and bonds posted to administer estates, showing dates of letter, oath and bond, names of estate, administrator and sureties, and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of estates. Hdw. 18 x 12 x 3. Clk. rec. rm. 1.

164. RECORD OF EXECUTORS' BOND, June 1852-. 4 vols. (1-4). 1847-May 1852 in Administrators' and Executors' Bonds, Oaths and Letters, entry 165.

Record of letters of appointment, oath administered, and bonds

posted to execute wills, showing dates of letter, oath and bond, names of decedent, executor and sureties, and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of decedents. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm. 1.

165. ADMINISTRATORS' AND EXECUTORS' BONDS, OATHS AND LETTERS, 1847-May 1852. 1 vol. (1).

Record of letters of appointment, oaths administered, and bonds posted to administer estates and execute wills, showing dates of letter, oath and bond, names of decedent, administrator or executor and sureties, and amount and conditions of bond. This is a combination of two records later kept separately: Administrators' Bond Record, entry 163; Record of Executors' Bonds, entry 164. Arr. chron. by dates of bonds. Indexed alph. by names of decedents. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm. 1.

166. LETTERS OF ADMINISTRATION, 1844-47. 1 vol.

Transcripts of letters of appointment and oaths of administrators, showing dates of letter and oath, and names of decedent and administrator. Arr. chron. by dates of letters. Indexed alph. by names of decedents. Hdw. 200 pp. 12 x 9 x 2. Clk. rec. rm. 1.

167. GUARDIANS' BOND RECORD, 1847-. 8 vols. (1 vol. not labelled, 1-7).

Record of letters of appointment, oaths administered, and bonds posted to administer guardianships, showing dates of letter, oath and bond, names of ward, guardian and sureties, and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of wards. Hdw. and typed. 600 pp. 16 x 11 x 3. Clk. rec. rm. 1.

168. ADMINISTRATORS', GUARDIANS', EXECUTORS' BONDS FOR SALE OF REAL ESTATE, 1860-. 2 vols. (2, 2).

Record of additional bonds posted by administrators, guardians and executors for sale of real estate, showing dates of bond, approval and filing, names of decedent or ward and administrator, guardian or executor, and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of wards and decedents. Hdw. 300 pp. 18 x 12 x 2. Clk. rec. rm. 1.

INVENTORIES AND SALES

169. INVENTORIES AND SALES, 1831-Feb. 10, 1852. 1 vol.

Transcripts of inventories and sale bills of property of estates and guardianships, showing dates of inventory and sale,

names of estate, ward, administrator, guardian, appraiser, creditor and purchasers, amounts of inventory and sale, and itemized list of articles sold. This is a combination of two records later kept separately: Record of Inventory, entry 170; Sales Bill Record, entry 171. Arr. chron. by dates of inventories. Indexed alph. by names of estates and guardianships. Hdw. 16 x 11 x 3. Clk. vt.

170. RECORD OF INVENTORY, Feb. 11, 1852-. 21 vols. (1-21). 1831-Feb. 10, 1852 in Inventory and Sales, entry 169.

Transcripts of inventories of property of estates and guardianships, showing dates of inventory and filing, names of estate or guardianship, administrator or guardian, appraisers and creditors, and description and appraised valuation of property. Arr. chron. by dates of filing. Indexed alph. by names of estates and guardianships. 1852-1928, hdw.; 1929-, typed. 600 pp. 18 x 12 x 4. Clk. rec. rm. 1.

171. SALES BILL RECORD, Feb. 11, 1852-. 8 vols. (1-8). 1831-Feb. 10, 1852 in Inventory and Sales, entry 169.

Record of sale of property of estates and guardianships, showing dates of sale and filing, names of estate or guardianship, administrator or guardian and purchaser, itemized list of articles sold, and amount realized. Arr. chron. by dates of sales. Indexed alph. by names of estates and guardianships. Hdw. and typed. 600 pp. 18 x 14 x 4. 5 vols., 1852-Feb. 18, 1916, clk. vt.; 3 vols., Feb. 21, 1916-, clk. rec. rm. 1.

MINUTES

172. PROBATE COURT DOCKET, 1830-39, 1864-74, 1882-1912. 9 vols. (2 vols. not labelled, 1-7). Title varies: Probate Journal, 1830-39, 1 vol. 1840-52, 1875-81 in Court Docket, entry 132; 1853-63 in Court Docket, entry 133; 1913- in Transfer Circuit Court Docket, entry 131.

Record of actions and proceedings in estate and guardianship causes, showing cause number, date of action, names of estates, guardianship, administrator, executor, guardian, legatees and attorneys, and final disposition. Arr. chron. by dates of actions. Indexed alph. by names of estates and guardianships. Hdw. 600 pp. 16 x 12 x 3. 1 vol., 1830-39, clk. rec. rm. 1; 1 vol. 1864-74, attic stor. rm. 6; 3 vols., 1882-Aug. 1898, attic stor. rm. 5; 4 vols., Sept. 1898-1912, clk. vt.

ORDERS

173. PROBATE ORDER BOOK, 1831-. 128 vols. (1-4, 1-124). Transcripts of all actions and proceedings in probate causes, showing cause number, dates of filing, action and settlement, court term, names of estate or guardianship, administrator, executor or guardian, heirs and witnesses, nature of action, and disposition. Also contains: Estate Docket, Probate [Final Reports], 1884-, entry 176; Complete Record Probate, 1930-, entry 177. Arr. chron. by dates of court terms. No index. 1831-Feb. 1917, hdw.; Mar. 1917-, typed. 600 pp. 18 x 12 x 4. Clk. rec. rm. 1.

174. PARTITION RECORD, 1852-. 16 vols. (1-16). Transcripts of actions and proceedings in partition causes for division of real property, showing dates of petition, appraisement, action and settlement, cause number, court term, names of property owners, location, description and appraised valuation of property, and nature of settlement. Arr. chron. by dates of actions. Indexed alph. by names of property owners. Hdw. 600 pp. 18 x 14 x 4. Clk. vt.

175. INHERITANCE TAX ORDER BOOK, 1932-. 3 vols. (1-3). Transcripts of orders determining value of estates and amount of inheritance tax, showing cause number, dates of decedent's death, order and appraisement, court term, names of decedent, heirs and appraiser, location, description and appraised valuation of property, and amount of tax. Arr. chron. by court terms. Indexed alph. by names of decedents. Typed. 500 pp. 18 x 12 x 3. Clk. rec. rm. 1.

For other inheritance tax records, see entries 106, 234.

176. ESTATE DOCKET, PROBATE [Final Reports], 1837-51, 1864-83. 2 vols. Title varies: Administrator's Accounts, Probate, 1837-51, 1 vol. 1884- in Probate Order Book, entry 173.

Transcripts of administrator's final report in settlement of estates, showing date of report, court term, amounts of inventory and expenditures, total amounts of charges, credits and balance, name, age and relationship of heirs, and names of decedent and administrator. Arr. chron. by dates of reports. Indexed alph. by names of decedents. Hdw. 350 pp. 18 x 12 x 3. Attic stor. rm. 5.

COMPLETE TRANSCRIPTS

177. COMPLETE RECORD PROBATE, 1845-69. 5 vols. (A, 1, 1-3). 1828-44. 1870-1929 in Complete Record, entry 148; 1930- in Probate Order Book, entry 173. Transcripts of all actions and proceedings in execution of

wills and settlement of decedents' estates, showing cause number, dates of action, will and decedent's death, names of decedent, administrator or executor, heirs and claimants, amount of estate, conditions of will, amounts distributed to heirs, and fees. Arr. chron. by dates of actions. Indexed alph. by names of decedents. Hdw. 600 pp. 18 x 12 x 4. Clk. off.

JUVENILE PROCEEDINGS

(See also entries 183-187)

178. JUVENILE COURT DOCKET, 1907-. 3 vols. (1 and 2 vols. not labelled).

Record of filing of actions and proceedings in juvenile causes, showing cause number, dates of filing and action, names of defendant and witnesses, nature of action, court proceedings, and disposition. Arr. chron. by dates of filing. Indexed alph. by names of defendants. Hdw. 300 pp. 16 x 14 x 3. 1 vol., 1907-23, cir. ct. rm.; 2 vols., 1924-, probation offr. off.

179. JUVENILE COURT ORDER BOOK, 1907-. 3 vols. (2, 3 and 1 vol. not labelled).

Record of actions and proceedings in juvenile causes, showing cause number, date of action, names of defendant, nature of action, and disposition. Arr. num. by cause nos. Indexed alph. by names of defendants. Typed. 550 pp. 18 x 12 x 3. 1 vol., 1907-17, clk. vt.; 2 vols., 1918-, probation offr. off.

180. REPORTS OF WHITE INSTITUTE, 1926-. 1 f. d.

Papers pertaining to juveniles committed to White Institute, showing dates of commitment, entry and release, name, age, address and family history of juvenile, case history, and record of conduct while in institution. Arr. alph. by names of juveniles. No index. Hdw. 12 x 16 x 24. Probation offr. off.

181. INDIANA GIRLS' SCHOOL, 1926-. 1 f. d.

Papers pertaining to girls committed to Indiana Girls' School, showing dates of commitment, entry and release, name, age, address and family history of girl, and record of conduct while in institution. Arr. alph. by names of girls. No index. Hdw. 12 x 16 x 24. Probation offr. off.

182. INDIANA BOYS' SCHOOL, 1929-. 1 f. d.

Papers pertaining to boys committed to Indiana Boys' School, showing dates of commitment, entry and release, name, age, address and family history of boy, case history, and record of conduct while in institution. Arr. alph. by names of boys. No index. Hdw. 12 x 16 x 24. Probation offr. off.

MISCELLANEOUS RECORDS

PROBATION RECORDS

183. WEEKLY REPORT BOOK, PROBATION OFFICER, 1923-. 3 vols.

Title varies: Cash Book, 1923-27, 1 vol.

Record of weekly reports of persons on probation, showing date of report, name, age, sex and address of probationer, and report of conduct and activities for week preceding. Arr. chron. by dates of reports. No index. Hdw. 200 pp. 12 x 8 x 2½. Probation offr. off.

184. [WEEKLY REPORT OF CHILDREN AND MONTHLY REPORT OF ADULTS], 1929-. 9 f. b.

Reports to probation officer of conduct and activities of individuals on probation, showing date of report, name, age, sex, occupation and address of probationer, and synopsis of general activities during preceding period. Arr. alph. by names of probationers. No index. Hdw. 10 x 5 x 16. Probation offr. off.

185. PROBATION PAPERS, 1926-. 7 f. d.

Record of family and case histories of persons on probation, showing number in family, name, age and sex of each member, and social status. Arr. alph. by names of families. No index. Hdw. 12 x 16 x 24. Probation offr. off.

186. RELEASE RECORD, 1923-31. 1 vol. Discontinued.

Record of releases of juveniles on probation, showing term of probation, date of release, and name, age, address and personal history of probationer. Indexed alph. by names of probationers. Hdw. 200 pp. 14 x 10 x ½. Probation offr. off.

187. EXCUSE BOOK, 1924-July 24, 1925. 1 vol. Discontinued.

Record of excuses given by juveniles on probation for failure to report at required times, showing dates of filing and failure to report, name, age, address and personal history of juvenile, nature of charge, and excuse offered. Arr. chron. by dates of filing. No index. Hdw. 200 pp. 14 x 10 x ½. Probation offr. off.

CHANGE OF VENUE (see also entries 269, 297ii)

188. CLERK'S VENUE RECORD, 1890-. 4 vols. (1-4).

Record of actions and proceedings on causes venued from foreign counties, showing cause number, dates of venue and action, names of plaintiff, defendant, jurors and foreign county, nature of action, court proceedings, and expense of trial. Arr. num. by cause nos. Indexed alph. by names of defendants.

Hdw. 280 pp. 18 x 12 x 3. 2 vols., 1890-May 1906, 1921-Nov. 1936, clk. vt.; 1 vol., June 1906-20, attic stor. rm. 5; 1 vol., Dec. 1936-, clk. rec. rm. 1.

189. [RECEIPTS FOR CHANGE OF VENUE], 1931-. In [Clerk's Miscellaneous Papers], entry 44.

Receipts for legal papers of causes venued to foreign counties, showing date of receipt; names of plaintiff, defendant and foreign county, cause number, itemized list of papers removed, and signature of recipient.

JURIES (see also entry 39ix, 39x)

190. JURORS' DOCKET, CIRCUIT COURT, 1899-1916. 3 vols. (1 vol. not labelled, 3, 4). 1917- in Order Book, Civil, entry 134.

Record of verdicts rendered in civil and criminal causes, showing cause number, nature of action, court term, date of verdict, names of plaintiff, defendant and jurors, and nature of verdict. Arr. chron. by terms of court. No index. Hdw. 175 pp. 14 x 9 x 1. Attic stor. rm. 5.

FEE AND CASH RECORDS

191. FEE BOOK, 1828-1912. 38 vols. (1-18, 1 vol. not labelled, 20-25, 27, 1 vol. not labelled, 29-31, 3 vols. not labelled, 35-38). 1913- in Issue Docket and Fee Book, entry 127.

Record of court fees received in civil and criminal causes, showing date and amount received, names of plaintiff, defendant and payer, and number and nature of cause. Also contains: Fee Book, Probate, 1831-63, entry 192. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 250 pp. 16 x 14 x 2. Attic stor. rm. 6.

192. FEE BOOK, PROBATE, 1864-1912. 8 vols. (1-7 and 1 vol. not labelled). 1831-63 in Fee Book, entry 191; estate fees, 1913- in Estate, Entry, Claim and Allowance Docket and Fee Book, entry 155; guardianship fees, 1913- in Guardianship Docket and Fee Book, entry 157.

Record of fees received in estate and guardianship causes, showing date and amount received, names of estate or guardianship, administrator or guardian and payer, number and nature of cause, and total. Arr. num. by cause nos. Indexed alph. by names of estates and guardianships. Hdw. 300 pp. 18 x 12 x 2. 3 vols., 1864-Oct. 1887, attic stor. rm. 6; 1 vol., Nov. 1887-May 1898, attic stor. rm. 5; 4 vols., June 1898-1912, clk. vt.

193. FEE BOOK, 1853-73. 5 vols. (1, 4, 4 and 2 vols. not labelled).

Record of fees collected in common pleas court actions, showing date and amount of court costs and fees paid, classification of fee, cause number, and names of plaintiff, defendant and payer. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. '200 pp. 18 x 12 x 2. Attic stor. rm. 6.

194. WITNESS CLAIM RECORD, 1894-1903. 1 vol.

Record of fees claimed by witnesses for services rendered, showing term of court, cause number, names of plaintiff, defendant and witnesses, number of days served, mileage, and total amount of claims. Arr. chron. by court terms. Indexed alph. by names of witnesses. Hdw. 600 pp. 18 x 14 x 3. Clk. rec. rm. 2.

VI. SUPERIOR COURT

The superior court, established in Delaware County in 1909, consists of one judge elected for a four-year term by the voters of the judicial district. The counties of Delaware and Grant constituted the judicial district (officially known as "Grant and Delaware Superior Court District") from 1909 until 1929. Since 1929 Delaware County alone has constituted the judicial district (officially known as "Delaware Superior Court Judicial District"). The official name of the court is "Delaware Superior Court."¹

The judge of the superior court is commissioned by the governor² and holds office until his successor is elected and qualified.³ For three years next before his candidacy for election, the judge must have been duly admitted to practice law in Indiana, and also must have practiced or taught law or acted as an officer of the state or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).⁴ During the term for which he was elected, the judge of the superior court cannot hold any office of trust or profit under the state, other than a

¹ Acts 1909, ch. 35, secs. 8-10, 17. Acts 1929; Burns 4-701 to 4-705; Baldwin 1473 to 1477.

² Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 492-01; Baldwin 13095.

³ Const., art. 15, sec. 3. Acts 1909, ch. 35, sec. 10. Acts 1929; Burns 4-703; Baldwin 1475.

⁴ Acts 1939; Burns, 1939 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

judicial office;⁵ and, while holding the office of judge of the superior court, the judge must not hold any other lucrative office⁶ and must not practice law.⁷ He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The judge of the superior court receives a regular salary of \$4,200 per year payable out of the state treasury. Additional compensation in an amount not exceeding \$2,800 per year, payable out of the county treasury, may be allowed to the judge by the board of commissioners, on petition of 20 resident freeholders of the county; and no appropriation by the county council is required. The judge of the superior court is entitled to the same compensation received by the judge of the circuit court.⁹

If the judge is convicted of corruption or other high crime, he may, on information in the name of the state, be removed from office by the supreme court.¹⁰ This is the only method by which the judge may be removed from office.¹¹

Any vacancy in the office of judge of the superior court is filled through appointment by the governor. The appointee is commissioned by the governor, must take an oath as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹²

The circuit court has original jurisdiction of all criminal cases under the state laws. The circuit court and superior court have concurrent original jurisdiction of all civil cases at law and in equity, under the state laws,¹³ except that the

⁵ Const., art. 7, sec. 16.

⁶ Const. 1816, art. 11, sec. 13. Const., art. 2, sec. 9.

⁷ Acts 1905; Burns 10-3101; Baldwin 2635.

⁸ Const. 1816, art. 11, sec. 1. Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1909, ch. 35, sec. 10. Acts 1929; Burns 4-703; Baldwin 1475. Acts 1921; Burns 4-3209; Baldwin 1225.

¹⁰ Const., art. 7 sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

¹¹ State v. Dearth (1929), 201 Ind. 1, 164 N. E. 489; State *ex rel.* Youngblood v. Warrick Circuit Court (1935), 208 Ind. 594, 196 N. E. 254. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹² Const., art. 5, sec. 13. Acts 1929; Burns 4-703; Baldwin 1475. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13105, 13107. State *ex rel.* Custer v. Schortemeier (1926), 197 Ind. 507, 151 N. E. 407.

¹³ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1902, ch. 35, sec. 9. Acts 1929; Burns 4-704; Baldwin 1476.

circuit court has exclusive original jurisdiction of juvenile matters, probate of wills, and administration of estates of decedents. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.¹⁴

The circuit court and superior court have concurrent appellate jurisdiction to review decisions—the superior court being confined to civil matters—¹⁵ of justices of the peace,¹⁶ city courts,¹⁷ board of commissioners,¹⁸ board of review fixing value of property for taxation,¹⁹ taxing authorities determining that property is taxable,²⁰ board of public works or board of park commissioners of any city in the county (or city council performing such functions),²¹ and other inferior tribunals when no express direction is given as to the court to which the appeal lies.²²

The circuit court and superior court have concurrent original jurisdiction of naturalization proceedings under the federal laws.²³

The judgments, decrees, orders, and proceedings of the superior court have the same force and effect as those of the circuit court, and are enforced in the same manner.²⁴ Laws regulating procedure in the circuit court and appeals therefrom apply to the superior court, unless other provision is made by law.²⁵ The circuit court has power to transfer causes to the superior court; and such transferred causes may proceed

¹⁴ *Ibid.* Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

¹⁵ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1909, ch. 35, sec. 9. Acts 1929; Burns 4-704 Baldwin 1476.

¹⁶ 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

¹⁷ Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

¹⁸ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. *State ex rel. Sink v. Circuit Court* (1938), --Ind.--, 15 N. E. (2d) 624.

¹⁹ Acts 1927; Burns 64-1020; Baldwin 15686.

²⁰ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

²¹ Acts 1933; Burns 48-4501; Baldwin 11576.

²² *Hamilton v. Fort Wayne* (1880), 73 Ind. 1.

²³ Acts of Congress 1802, ch. 28, secs. 1, 3; *U. S. Statutes at Large*, 2:153, 155. Acts of Congress 1824, ch. 186, sec. 4; *U. S. Statutes at Large*, 4:69. Acts of Congress 1906, 1911, 1913; *U. S. C.*, title 8, sec. 357.

²⁴ Acts 1909; ch. 35, sec. 9. Acts 1929; Burns 4-704; Baldwin 1476.

²⁵ Acts 1909, ch. 35, sec. 12. Acts 1929; Burns 4-707, 4-710; Baldwin 1479, 1494 note.

as if originally commenced in the court to which they were transferred.²⁶

Terms of court begin on the second Monday in January, April, and September, each year, and last as long as the business of the court requires.²⁷

The clerk of the circuit court and the sheriff of the county are, respectively, the clerk and sheriff of the superior court; and they, in person or by deputy, attend all sessions of this court and discharge in this court all duties which they are required by law to perform in the circuit court.²⁸ Judgments, executions, and papers of the superior court are entered by the clerk in the same record books as are used for those of the circuit court, except that separate order books are kept for the superior court.²⁹

CIVIL CAUSES

(See also entries 116, 136, 138, 139, 141, 143-146, 188, 191)

FILING OF ACTIONS

195. ENTRY DOCKET SUPERIOR COURT, 1909-. 13 vols. (1-13). Record of filing of actions in civil causes, showing cause number, date of filing, names of plaintiff, defendant and attorneys, and nature of action. Arr. num. by 'cause nos. Indexed alph. by names of defendants. Hdw. 300 pp. 18 x 12 x 4. 6 vols., 1909-27, clk. vt.; 7 vols., 1928-, deputy clk. off.

ORIGINAL DOCUMENTS

196. [SUPERIOR COURT CAUSES], 1909-. 390 f. b. (-[Minus] 1- [Minus] 357 and 33 f. b. not labelled). Original documents filed in civil causes, including affidavits for attachment, demurrers, injunction complaints, motions, summons, foreclosures of mortgages, appointments of receivers, complaints for divorce, applications for support, and citations, showing dates of filing and action, names of plaintiff, defendant and attorneys, cause and packet numbers, nature of action, and disposition. Arr. num. by cause and packet nos. For index, see entry 116. Hdw. and typed. 10 x 5 x 14. 357 f. b., 1909-, clk. vt.; 33 f. b., 1938-, deputy clk. off.

²⁶ Acts 1905; Burns 4-304; Baldwin 1419 note. Acts 1911; Burns 4-401; Baldwin 1419. Acts 1929; Burns 4-708; Baldwin 1480.

²⁷ Acts 1929; Burns 4-705; Baldwin 1477.

²⁸ Acts 1929; Burns 4-706; Baldwin 1478.

²⁹ Acts 1929; Burns 4-709; Baldwin 1481.

MINUTES

197. ISSUE DOCKET AND FEE BOOK, 1909-. 15 vols.

Record of civil causes set for trial and fees assessed, showing cause number, date of trial, names of plaintiff and defendant, nature of action, amount of fees, and disposition. Arr. chron. by dates of trials. No index. Hdw. 1000 pp. 14 x 18 x 6. Clk. off.

198. [COURT DOCKET, PENDING CAUSES], 1929-. 2 vols.

Minutes of actions and proceedings in civil causes pending, showing cause number, date of action, term of court, names of plaintiff, defendant and attorneys, nature of action, and minutes of proceedings. Arr. num. by cause nos. No index. Hdw. 1000 pp. 14 x 18 x 6. Deputy clk. off.

199. [COURT DOCKET, DISPOSED OF CAUSES], 1909-. 12 vols.

Minutes of actions and proceedings in civil causes, showing cause number, date of action, court term, names of plaintiff, defendant and attorneys, nature of action, minutes of proceedings, and disposition. Arr. num. by cause nos. No index. Hdw. 1000 pp. 14 x 18 x 6. 11 vols., 1909-10, 1916-, deputy clk. off.; 1 vol., 1911-15, clk. rec. rm. 1.

ORDERS

200. SUPERIOR COURT ORDER BOOK, 1909-. 37 vols. (1-37).

Transcripts of actions and proceedings in civil causes, showing cause number, date of action, court term, names of plaintiff and defendant, nature of action, amount of judgment, minutes of proceedings, and disposition. Arr. num. by cause nos. Indexed alph. by names of defendants. Typed. 600 pp. 18 x 12 x 4. 34 vols., 1909-Dec. 2, 1937, clk. rec. rm. 1; 3 vols., Dec. 3, 1937-, deputy clk. off.

VII. SHERIFF

The sheriff of Delaware County is a constitutional officer, elected for a two-year term by the voters of the county. The office of sheriff was created by the Constitution of 1816 and re-created by the Constitution of 1851. He is not eligible to hold office more than four years in any six-year period.¹

¹ Const. 1816, art. 4, sec. 25. Const., art. 6, sec. 2. 2 Rev. Stat. 1852; Burns 49-2801; Baldwin 5493. *Gemmer v. State ex rel. Stephens* (1904), 163 Ind. 150, 71, N. E. 478.

He is commissioned by the governor,² and holds office until his successor is elected and qualified.³ The sheriff must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election;⁴ and, while holding said office, he must reside in the county, must not hold any other lucrative office,⁵ and must not practice law.⁶ He must post bond in an amount between \$5,000 and \$15,000—approved by the board of commissioners and filed with the clerk of the circuit court—⁷ and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The sheriff receives a regular salary of \$3,920 per year.⁹ He is permitted to retain, as compensation for himself, the fees charged by him for execution of process issued by courts outside of the county. He receives a mileage allowance at the rate of six cents per mile (when he furnishes the conveyance) for each mile necessarily travelled in serving process, transporting persons to penal and benevolent institutions, and going for and returning fugitives.¹⁰

For sufficient legal grounds the sheriff may be removed by the circuit court or superior court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹¹ If the sheriff is convicted of a felony, or of permitting the lynching of any prisoner in his custody, the judgment of conviction must declare his office vacant.¹²

² Const. 1816, art. 11, sec. 9. Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const., art. 15, sec. 3.

⁴ Const. 1816, art. 11, sec. 14. Const., art. 6, sec. 4.

⁵ Const. 1816, art. 11, secs. 6, 13. Const., art. 2, sec. 9; art. 6, sec. 6.

⁶ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State (1867), 27 Ind. 491.

⁷ 2 Rev. Stat. 1852, Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

⁸ Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. State *ex rel.* Chapman v. Lines (1853), 4 Ind. 351.

⁹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1933, 1937; Burns, 1939 suppl., 49-1008; Baldwin, 1937 suppl., 7538. McFarlan v. State (1897), 149 Ind. 149.

¹¹ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13163. Acts 1875; Burns 49-837; Baldwin 13052.

¹² Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. Acts 1897, 1899; Burns 49-834; Baldwin 13050.

Any vacancy in the office of sheriff is filled by appointment by the board of commissioners. The county coroner performs the duties of sheriff until a new appointment is made. The person appointed to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹³

The sheriff may appoint one deputy without the approval of the board of commissioners, and may appoint additional deputies and assistants with such approval. The county council fixes the salaries of these deputies and assistants, and the salary of each must be not less than \$75 nor more than \$200 per month.¹⁴ The sheriff appoints a prison matron who takes care of all children under 14 years of age and of all female prisoners.¹⁵ The sheriff may require any deputy to give bond.¹⁶ The deputies must take the oath required of the sheriff, may perform all the official duties of the sheriff, and are subject to the same regulations and penalties.¹⁷ The sheriff may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁸

The sheriff's first duty after the formation of Delaware County in 1827 was to hold a special election for the other officers.¹⁹ The sheriff's duties have not changed greatly since the organization of Delaware County;²⁰ however, the sheriff no longer conducts the elections (with the exception of posting notices)²¹ or collects taxes.²²

¹³ Const., art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. 2 Rev. Stat. 1852; 49-2902; Baldwin 5437. *Akers v. State ex rel. Kent* (1856), 8 Ind. 484. *State ex rel. Culbert v. Linkhauer* (1895), 142 Ind. 94, 41 N. E. 325. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁴ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

¹⁵ Acts 1901; Burns 13-1201, 13-1206; Baldwin 13760, 13785.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

¹⁷ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Boaz v. Tate* (1873), 43 Ind. 60.

¹⁹ Acts 1826-27, ch. 10.

²⁰ Rev. Laws 1824, ch. 100, secs. 10, 14.

²¹ Rev. Laws 1824, ch. 37, secs. 1, 2. 1 Rev. Stat. 1852, ch. 31, sec. 2. Acts 1889, ch. 87, sec. 15. Acts 1891, ch. 94, sec. 2. Acts 1881 (Spec. Sess.); Burns 29-702, 29-1703; Baldwin 7082, 7248. *Demaree v. Johnson* (1897), 150 Ind. 419, 49 N. E. 1062.

²² Rev. Laws 1824, ch. 23, secs. 4, 6. Acts 1840-41 (general), ch. 4, secs. 13-22.

The sheriff is a conservator of the peace within the county. He is required to arrest without process all persons, who within his view commit any crime or misdemeanor, and detain them in custody during investigation of the cause of the arrest; suppress all breaches of the peace, with authority to call to his aid the power of the county; pursue and commit to jail all felons; maintain the jail and take care of the prisoners confined therein; execute all process, orders, and warrants directed to him by legal authority; and preserve and maintain order in all courts in the county, except those of justices of the peace.²³ It is his duty to make arrests on warrants issued on indictments and affidavits and commit the arrested persons to jail or hold them to bail as provided by law; to serve summonses in cases of misdemeanors;²⁴ and to protect persons from being lynched.²⁵ The sheriff calls the petit jury for criminal cases as prescribed by law or directed by the court.²⁶

The sheriff sells property on execution and on mortgage foreclosure proceedings;²⁷ executes deeds to real property sold by him;²⁸ transports persons committed to state charitable, correctional, and penal institutions;²⁹ and attends sessions and executes orders of the county council³⁰ and board of commissioners.³¹ He is also a deputy of the sheriff of the Supreme Court of Indiana;³² and, as such, serves process and orders of the Supreme Court of Indiana and the Appellate Court of Indiana, when directed to do so.³³

²³ Acts 1881 (Spec. Sess.); Burns 2-802, 3-522, 3-1910 to 3-1913, 3-2705; Baldwin 83, 791, 1026 to 1029, 1202. Acts 1905; Burns 10-3707; Baldwin 2654. Acts 1903; Burns 35-411; Baldwin 8541. 2 Rev. Stat. 1852; Burns 49-2802, 49-2803; Baldwin 5494, 5495. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1919; Burns 64-1303; Baldwin 15707.

²⁴ Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

²⁵ Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. State *ex rel.* Maxwell v. Dudley (1903), 161 Ind. 431, 68 N. E. 899.

²⁶ Rev. Laws 1824, ch. 56, sec. 3, p. 235. Acts 1905; Burns 9-1501; Baldwin 2246.

²⁷ 2 Rev. Stat. 1852, ch. 8, sec. 472. Acts 1881 (Spec. Sess.); Burns 2-3601, 3-1819; Baldwin 574, 1014.

²⁸ Acts 1881 (Spec. Sess.); Burns 2-4101; Baldwin 619. Acts 1931; Burns 3-1806; Baldwin 1008.

²⁹ Acts 1905; Burns 9-2232, 22-2013; Baldwin 2339, 4206. Acts 1911; Burns 22-1716; Baldwin 4230. Acts 1919; Burns 22-1809; Baldwin 4264. Acts 1927; Burns 22-1213; Baldwin 4305.

³⁰ Acts 1889; Burns 26-510; Baldwin 5374.

³¹ Rev. Stat. 1843, ch. 7, sec. 5. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

³² 2 Rev. Stat. 1852; Burns 49-2203; Baldwin 1339. 2 Rev. Stat. 1852, Acts 1889; Burns 49-2204; Baldwin 1340.

³³ Acts 1891; Burns 4-230; Baldwin 1378.

The sheriff charges fees provided by law for the services he performs.³⁴ He receives weekly reports from poultry dealers and makes any investigations concerning them which he considers necessary.³⁵ He grants licenses for the sale of firearms on forms prescribed by the superintendent of the state police.³⁶

Whenever the sheriff is unable to attend to his duties, the coroner performs them;³⁷ and if both the sheriff and coroner are unable to act, it is then the duty of the circuit court to appoint an elisor who discharges the sheriff's duties until the disability of the sheriff or coroner is removed.³⁸

The sheriff keeps a cashbook, a fee book,³⁹ a jail record,⁴⁰ a poultry record,⁴¹ and a record of the service of process.⁴² He makes an annual written report, under oath, to the circuit court showing all executions and other process in his hands, what levies he has made, the amount of money collected on each execution, and when service thereof was made, which report is to be entered on the order book of the circuit court.⁴³

The books and accounts of the sheriff are examined, from time to time without notice, by the state examiner.⁴⁴

SERVICE ON WRITS

201. SHERIFF'S DOCKET, CIVIL, CIRCUIT COURT, 1859-. 54 vols. (1-29, 5 vols. not labelled, 33-37, 39-42, 44-54).

Record of writs served in civil causes, showing dates of writ, service, return and trial, cause number, kind of writ, names

³⁴ Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1932 (Spec. Sess.); Burns 49-1312, 49-1315, 49-1316; Baldwin 7571, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1.

³⁵ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

³⁶ Acts 1935, 1937; Burns, 1939 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

³⁷ 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901, 49-2902; Baldwin 5436, 5437.

³⁸ 2 Rev. Stat. 1852; Burns 4-322; Baldwin 1411.

³⁹ Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

⁴⁰ Rev. Stat. 1838, ch. 83, sec. 5. Acts 1909. Burns 13-1007; Baldwin 13459.

⁴¹ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

⁴² Record required by the state board of accounts. Acts 1909; Burns 60-202; Baldwin

13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁴³ Acts 1905; Burns 9-1034; Baldwin 2179. 2 Rev. Stat. 1352; Burns 49-2807; Baldwin 5502.

⁴⁴ Acts 1909; Burns 60-211; Baldwin 13862.

of plaintiff, defendant and witnesses, and amount of fees. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 320 pp. 18 x 12 x 3. 39 vols., 1859-Apr. 1912, attic stor. rm. 6; 15 vols., May 1912-, sher. off.

202. SHERIFF'S DOCKET, COMMON PLEAS, 1853-73. 4 vols. (1-4).

Record of writs served in common pleas court causes, showing dates of writ, service and return, cause number, names of plaintiff, defendant and witnesses, and amount of fee. Arr. num. by cause nos. No index. Hdw. 322 pp. 18 x 13 x 3. Attic stor. rm. 6.

203. SHERIFF'S STATE DOCKET, 1887-. 10 vols. (2-11).

Record of writs served in criminal causes, showing dates of writ, service and return, cause number, names of defendant and witnesses, kind of writ, and amount of fee. Arr. num. by cause nos. No index. Hdw. 800 pp. 18 x 13 x 3. 3 vols., 1887-Jan. 2, 1913, attic stor. rm. 6; 7 vols., Jan. 3, 1913-, sher. off.

204. SHERIFF'S PROBATE DOCKET, 1882-. 7 vols. (1-7).

Record of writs served in probate causes, showing dates of writ, service and return, cause number, names of principals and witnesses, kind of writ, and amount of fees. Arr. chron. by dates of writs. No index. Hdw. 322 pp. 18 x 12 x 3. 6 vols., 1882-1932, attic stor. rm. 6; 1 vol., 1933-, sher. off.

205. SHERIFF'S DOCKET, JUVENILE COURT, 1912-. 2 vols. (1,2).

Record of writs served in juvenile causes, showing dates of writ, service and return, cause number, kind of writ, names of plaintiff, defendant and witnesses, and amount of fees. Arr. chron. by dates of writs. No index. Hdw. 320 pp. 18 x 12 x 3. Sher. off.

206. SHERIFF'S DOCKET, SUPERIOR COURT, 1909-. 10 vols. (1-10).

Record of writs served in civil causes of superior court, showing dates of writ, service and officer's return, cause number, names of plaintiff, defendant and witnesses, kind of writ, and amount of fees. Arr. chron. by dates of writs. No index. Hdw. 320 pp. 18 x 12 x 3. 3 vols., 1909-20, attic stor. rm. 6; 7 vols., 1921-, sher. off.

EXECUTIONS ON JUDGMENTS

(See also entries 138-147)

207. SHERIFF'S EXECUTION DOCKET, 1872-. 6 vols. (1, A-D and 1 vol. not labelled). Title varies: Register of Executions, 1872-Oct. 20, 1885, 1 vol.

Record of execution of writs to satisfy judgments, showing

cause number, dates of writ, execution and return, names of plaintiff, defendant and judgment debtor, and amounts of judgment, interest and costs. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 291 pp. 18 x 13 x 3. 1 vol., 1872-Oct. 20, 1885, attic stor. rm. 5; 3 vols., Oct. 21, 1885-Feb. 1928, attic stor. rm. 6; 2 vols., Mar. 1928-, sher. off.

208. SALES CERTIFICATES, 1881-. 6 f. b.

Original certificates for property sold to satisfy judgments presented to sheriff to obtain deeds, showing cause number, dates of decree, sale and certificate, names of plaintiff, defendant and purchaser, location and description of property, amounts of judgment, cost and sale, and volume and page reference to Order Book, Civil, entry 134 and Execution Docket, entry 139. Arr. chron. by dates of certificates. No index. Hdw. and typed. 10 x 5 x 14. 2 f. b., 1881-1916, clk. rec. rm. 1; 4 f. b., 1917-, sher. off.

209. NOTICE OF SEIZURE, 1928-. 1 f. b.

Notice to defendants of property seized and sold to satisfy judgments, showing dates of notice and sale, names and address of plaintiff and defendant, and description of property. Arr. chron. by dates of notices. No index. Typed. 10 x 5 x 14. Sher. off.

210. RESTRAINING ORDERS, 1921-. 1 f. b.

Circuit and superior court restraining orders prohibiting individuals from molesting persons or property pending settlement of cause in court, showing dates of order and filing, nature and number of order, and names of plaintiff and defendant. Arr. chron. by dates of filing. No index. Typed. 10 x 5 x 14. Sher. off.

JURIES

211. REGISTER OF JURORS, 1893-. 5 vols. (1, 2, 1, 2, 1).
Title varies: Jurors' Time Book, 1893-1920, 2 vols.;
Sheriff's Miscellaneous Docket, 1916-Apr. 1933, 2
vols.

Register of jurors empanelled for jury service, showing date of trial, court term, cause number, names of jurors, plaintiff and defendant, name and term of court, number of days served, mileage, and amount of fees. Arr. chron. by court terms. Indexed alph. by names of jurors. Hdw. 305 pp. 18 x 12 x 3. 2 vols., 1893-1920, attic stor. rm. 5; 2 vols., 1916-Apr. 1933, attic stor. rm. 6; 1 vol., May 1933-, sher. off.

JAIL RECORDS

212. JAIL REGISTER, 1869-. 10 vols. (1-4 and 6 vols. not labelled).

Sheriff's register of persons imprisoned in county jail, showing dates of imprisonment, sentence and release, name, nationality and physical description of inmate, names of court and arresting officer, nature of charge, duration of sentence, number of meals served, and total amount for meals due sheriff. Arr. chron. by dates of imprisonment. No index. Hdw. 320 pp. 16 x 11 x 2½. 6 vols., 1869-Mar. 24, 1916, attic stor. rm. 5; 4 vols., Mar. 25, 1916-, sher. off.

BONDS

213. BONDS, 1925-. 8 f. b.

Surety bonds posted by sheriff's deputies, showing date, number and amount of bond, names of deputy and sureties, and conditions of bond. Arr. alph. by names of deputies. No index. Hdw. 10 x 5 x 14. Sher. off.

214. SPECIAL DEPUTY, 1929-. 1 f. b.

Oaths administered to deputy sheriffs, showing date of oath, name, address, age and description of appointee, place of assignment, and duration of appointment. Arr. alph. by names of appointees. No index. Hdw. 10 x 5 x 14. Sher. off.

LICENSES

215. APPLICATION FOR DEALERS LICENSE TO SELL FIREARMS, 1935-. 1 vol.

Record of applications and issuance of annual licenses to dealers to sell firearms, showing date and number of license, name and address of dealer, and signature of sheriff. Arr. num. by license nos. No index. Hdw. 100 pp. 10 x 12 x 1. Sher. off.

FEE AND CASH RECORDS

216. STATEMENTS AND RECEIPTS, 1912-. 3 f. b.

Copies of statements to auditor of sheriff's receipts and disbursements, showing dates of statement and filing, names of payer and payee, and nature and amount of receipt or disbursement. Arr. chron. by dates of filing. No index. Hdw. 10 x 5 x 14. Sher. off.

217. SHERIFF'S CASH BOOK, 1893-. 2 vols.

Record of fees collected by sheriff, showing date and amount received, cause number, nature of writ, and names of plaintiff, defendant and payer. Arr. chron. by dates received. No index. Hdw. 500 pp. 18 x 12 x 3. Sher. off.

VIII. CORONER

The coroner of Delaware County is a constitutional officer, elected for a two-year term by the voters of the county, without restrictions on re-election. The office was created by the Constitution of 1816 and re-created by the Constitution of 1851.¹ He is commissioned by the governor,² and holds office until his successor is elected and qualified.³ The coroner must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;⁴ and, while holding the office of coroner, he must reside within the county and must not hold any other lucrative office.⁵ He is required to post bond in an amount between \$1,000 and \$5,000—approved by the board of commissioners and filed with the clerk of the circuit court.⁶ He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁷

The coroner receives, as compensation for himself, for empanelling and swearing witnesses, and making and returning inquisition for the viewing of each body, \$5 for the first day and \$2.50 for each additional day, plus a mileage allowance of five cents for each mile necessarily travelled in performing his duties. When he performs the duties required of the sheriff, the coroner receives the same compensation allowed to the sheriff.⁸

¹ Const. 1816, art. 4, sec. 25. Const., art. 6, sec. 2.

² Const. 1816, art. 11, sec. 9. Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const., art. 15, sec. 3.

⁴ *Ibid.* sec. 4.

⁵ *Ibid.*, art. 2, sec. 9; art. 6, sec. 6.

⁶ 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

⁷ Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁸ Acts 1875 (Spec. Sess.); Burns 49-2917; Baldwin, 1935 suppl., 5452.

For sufficient legal grounds the coroner may be removed by the circuit court or the superior court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁹ If the coroner is convicted of a felony the judgment of conviction must declare his office vacant.¹⁰

Any vacancy in the office of coroner is filled through appointment by the board of commissioners. The person appointed to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹¹

There has been no major change in the office of coroner since the early days of the county, other than the abolition of the coroner's jury¹² and the consequent transformation of the inquest from a court hearing in public to a formal non-judicial inquiry.¹³

The coroner is required to investigate deaths resulting from violence and other unnatural causes and inquire into the cause and manner of death.¹⁴ If the finding of the inquisition determines that the death was caused by felony, the coroner must order the arrest of any person whom he may charge with such felony.¹⁵ He holds inquests without a jury,¹⁶ and may subpoena witnesses and employ a physician for post-mortem examination.¹⁷ He draws up his verdict in writing,¹⁸ and files it in the office of the clerk of the circuit court,

⁹ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁰ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹¹ Const., art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹² Acts 1879; Burns 49-2905; Baldwin 5444.

¹³ Acts 1817-18 (general), ch. 20, secs. 1-9. Rev. Laws 1824, ch. 100, secs. 10-22. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439. See also *Stults v. Board of County Comrs.*, 162 Ind. 539, 81 N. E. 471.

¹⁴ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

¹⁵ 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

¹⁶ Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

¹⁷ 2 Rev. Stat. 1852; Burns 49-2906; Baldwin 5440.

¹⁸ 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2908; Baldwin 5442.

together with a written report giving a minute description of the deceased and valuables found with the body. These valuables are turned over to the county treasurer if no person legally authorized to receive them can be found.¹⁹ The coroner makes a written report each month, to the state department of public safety, showing deaths of persons in his jurisdiction, during the preceding month, resulting from the operation of motor vehicles.²⁰ He is a peace officer with the same powers as the sheriff,²¹ and acts as sheriff in event of absence, a vacancy in the office, personal interest, or incapacity of that officer.²² All judicial writs against the sheriff are executed by the coroner. This duty includes the arrest and detention of the sheriff by the coroner.²³

The coroner is not required to keep any records permanently.²⁴

218. CORONER'S INQUEST, 1852—. 8 cartons, 6 f. b.

Inquest papers of sudden, violent or unexplained deaths, showing dates of death, inquest and filing, coroner's obtainable personal data, name and sex of deceased, names of witnesses, coroner's verdict, and place of burial. Arr. chron. by dates of filing. No index. Hdw. Cartons, 4 x 12 x 20; f. b., 10 x 5 x 14. 8 cartons, 1852-1925, clk. rec. rm. 1; 3 f. b., 1926-31, clk. vt.; 3 f. b., 1932—, clk. rec. rm. 1.

IX. PROSECUTING ATTORNEY

The prosecuting attorney is a constitutional officer, elected by the voters of each judicial circuit for a two-year term.¹ Delaware County alone constitutes the forty-sixth judicial circuit.² He is commissioned by the Governor of

¹⁹ 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2909; Baldwin 5443.

²⁰ Acts 1939 Burns, 1939 suppl., 47-1919; Baldwin, 1939 suppl., 289-48.

²¹ 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

²² 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

²³ 2 Rev. Stat. 1852; Burns 49-4983; Baldwin 5538.

²⁴ Interview of May 18, 1939 with E. P. Brennan, state examiner.

¹ Const., art. 7, sec. 11. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Robinson v. Moser (1931), 203 Ind. 66, 179 N. E. 270.

The prosecuting attorney is not a state or county officer. State v. Patterson (1914), 181 Ind. 660, 105 N. E. 228.

² Acts 1885, ch. 27, sec. 2.

Indiana,³ and holds office until his successor is elected and qualified.⁴ He must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;⁵ and, while holding the office of prosecuting attorney, he must reside within the judicial circuit, and must not hold any other lucrative office.⁶ He must post bond in the amount of \$5,000— approved by the circuit judge and filed with the clerk of the circuit court—⁷ and take oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The prosecuting attorney of Delaware County receives a regular salary of \$3,825 per year payable out of the county treasury.⁹ He is entitled to reimbursement for expenses incurred when attending conferences called by the attorney general.¹⁰ He is not permitted to retain, as compensation for himself, any fees collected by him.¹¹

If the prosecuting attorney is convicted of corruption or other high crime, he may, on information in the name of the state, be removed from office by the supreme court.¹² This is the only method by which he may be removed from office.¹³

Any vacancy in the office of prosecuting attorney is filled through appointment by the governor. The appointee must take oath and post bond as was required of his predecessor,

³ Const. 1816, art. 11, sec. 9. Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁴ Const., art. 15, sec. 3.

⁵ Const. 1816, art. 11, sec. 14. Const., art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const., art. 2, sec. 9; art. 6, sec. 6. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. State *ex rel.* Howard v. Johnston (1835), 101 Ind. 223.

⁷ 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

⁸ Const. 1816, art. 11, sec. 1. Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1933; Burns 49-2620; Baldwin 7549.

¹⁰ Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

¹¹ *Ibid.* *Opinions of the Attorney General of Indiana, 1938*, p. 234.

¹² Const., art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

¹³ State *ex rel.* Gibson v. Friedley (1893), 135 Ind. 119, 34 N. E. 872; State v. Patterson (1914), 181 Ind. 660, 105 N. E. 228; State v. Redman (1915), 183 Ind. 332, 109 N. E. 184; State *ex rel.* Williams v. Ellis (1916), 184 Ind. 307, 112 N. E. 98; State v. Dearth (1929), 201 Ind. 1, 164 N. E. 489; State *ex rel.* Youngblood v. Warrick Circuit Court (1935), 208 Ind. 594, 196 N. E. 254. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

and holds office for the unexpired term and until his successor is elected and qualified.¹⁴

The prosecuting attorney may appoint such deputies as may be necessary. The maximum aggregate amount that may be paid annually for salaries of his deputies is \$2,400, and such salaries must be within an appropriation made by the county council. The salaries of the deputies are paid on warrants drawn by the auditor after allowance by the board of commissioners of a duly itemized and verified claim therefor.¹⁵ The deputies must take the oath required of the prosecuting attorney, may perform all his official duties, and are subject to the same regulations and penalties.¹⁶ The prosecuting attorney may remove such deputies at any time and is responsible for their official acts.¹⁷ Whenever the prosecuting attorney fails to attend court, the judge must appoint some person to act in his place, and the compensation of the appointee is deducted from the salary of the prosecuting attorney.¹⁸

From the time of the organization of Delaware County in 1827¹⁹ until 1885, the county was attached to different judicial circuits (third, sixth, eleventh, seventh, and twenty-fifth, respectively), each composed of more than one county. In 1885 Delaware County was transferred to the forty-sixth judicial circuit composed of Delaware County alone.²⁰

From 1827 until 1843 a prosecuting attorney for the judicial circuit was appointed, under statutory authority, for a two-year term by joint ballot of the senate and house of representatives.²¹ An act of 1843 provided that he be elected for a two-year term by the voters of the judicial circuit.²² An act of 1847 provided for a three-year term, but this act

¹⁴ Const., art. 5, sec. 18; art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State *ex rel.* Custer v. Schortemeier (1929), 197 Ind. 507, 151 N. E. 407. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁵ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2602, 49-2620; Baldwin 7548, 7549.

¹⁶ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. Stout v. State (1884), 93 Ind. 150.

¹⁷ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933; Burns 49-2602; Baldwin 7548.

¹⁸ 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461.

¹⁹ Acts 1826-27, ch. 10.

²⁰ See the essay entitled "Circuit Court."

²¹ Acts 1826-27, ch. 17, secs. 1, 2. Rev. Laws 1831, ch. 10, secs. 1-5.

²² Acts 1842-43 (general), ch. 15, secs. 1-5.

was repealed in 1851 and the law of 1843 was revived.²³ The office of prosecuting attorney became a constitutional office when the Constitution of 1851 was adopted.²⁴

The prosecuting attorney acts as attorney for the state in criminal cases under the state laws and as attorney for the state and county in civil cases.²⁵

Investigations of alleged violations of criminal laws are conducted by the prosecuting attorney,²⁶ the sheriff,²⁷ or the coroner,²⁸ co-operating with one another and with state and federal bureaus of law enforcement;²⁹ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.³⁰

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.³¹ When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill", and signs his name thereunder. The indictment is also signed by the prosecuting attorney.³²

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.³³ He may also prosecute on affidavit all public offenses other than treason and murder.³⁴ Before justices of the peace, he prosecutes cases of surety of the peace.³⁵

²³ Acts 1846-47 (general), ch. 13, secs. 1-8. Acts 1850-51 (general), ch. 132, secs. 1-3.

²⁴ Const., art. 7, sec. 11.

²⁵ 2 Rev. Stat. 1852; Burns 49-2501, 49-2503, 49-2504; Baldwin 5456, 5459, 5460. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

In city courts he prosecutes criminal cases under the state laws. Acts 1905; Burns 4-2409; Baldwin 11595.

²⁶ 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

²⁷ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁸ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

²⁹ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

³⁰ Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

³¹ Acts 1905; Burns 9-876; Baldwin 2172.

³² Acts 1905; Burns 9-901; Baldwin 2123. Taylor v. State (1888), 113 Ind. 471, 16 N. E. 183.

³³ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

³⁴ Acts 1905, 1927; Burns 9-903; Baldwin 2131.

³⁵ Acts 1905; Burns 9-511; Baldwin 2059.

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all civil actions and proceedings in which the county may be interested or involved,³⁶ including suits to collect taxes³⁷ or to recover tax penalties and forfeitures³⁸ and suits against officers or on their bonds.³⁹

The prosecuting attorney prosecutes suits on forfeited recognizances,⁴⁰ suits to recover costs of cutting hedge fences when the work was done by public officials,⁴¹ suits against railroad companies to recover penalties for not gravelling highway crossings,⁴² suits to recover gaming losses,⁴³ and suits to enjoin violation of laws concerning horse racing.⁴⁴ He acts for the state when a surety on a forfeited recognizance sues the principal on the theory of subrogation of the rights of the state.⁴⁵ He prosecutes bastardy proceedings⁴⁶ and resists undefended divorce suits.⁴⁷ On appeals from the medical examination board in license matters he represents that board.⁴⁸ He protects the interests of all persons of unsound mind.⁴⁹ In proceedings to have a person adjudged insane and committed to an institution for insane persons, he represents the person alleged to be

³⁶ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

³⁷ Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1935, 1937; Burns, 1939 suppl., 12-912; Baldwin, 1937 suppl., 3764-41. Acts 1937; Burns, 1939 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-719, 64-1518, 64-1519; Baldwin 15633, 15772, 15773. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1939 suppl., 64-2628; Baldwin, 1937 suppl., 16009.

³⁸ Acts 1919; Burns 64-608, 64-1319, 64-2208; Baldwin 15576, 15723, 15815. Acts 1933, 1937; Burns, 1939 suppl., 64-2627, 64-2628; Baldwin, 1937 suppl., 16007, 16009.

³⁹ 1 Rev. Stat. 1852; Burns 44-204; Baldwin 5635. Acts 1883; Burns 49-142; Baldwin 13094. Acts 1895; Burns 49-1408; Baldwin 7583. Acts 1917; Burns 60-227; Baldwin 13878. Acts 1919; Burns 64-2507, 64-2508; Baldwin 15856, 15857. *Wood v. State ex rel. Canady* (1890), 125 Ind. 219, 25 N. E. 190; *Wood v. Board of County Comrs.* (1890), 125 Ind. 270, 25 N. E. 188.

⁴⁰ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

⁴¹ Acts 1891; Burns 30-303; Baldwin, 1935 suppl., 7648-1. Acts 1895; Burns 30-307; Baldwin 7649.

⁴² Acts 1895; Burns 55-620; Baldwin 14119.

⁴³ 1 Rev. Stat. 1852; Burns 10-2323; Baldwin 2806.

⁴⁴ Acts 1895; Burns 10-2711; Baldwin 9273.

⁴⁵ Acts 1905; Burns 9-1045; Baldwin 2178.

⁴⁶ 2 Rev. Stat. 1852; Burns 3-622; Baldwin 867.

⁴⁷ Acts 1873, 1913; Burns 3-1212 to 3-1215; Baldwin 916 to 919. *State v. Brinneman* (1889), 120 Ind. 357, 22 N. E. 332.

⁴⁸ Acts 1897, 1899, 1901; Burns 63-1306; Baldwin 10707.

⁴⁹ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

insane.⁵⁰ He must be present at the hearing of proceedings to commit any person to any hospital operated by trustees of Indiana University.⁵¹

The Attorney General of Indiana holds conferences with all prosecuting attorneys concerning traffic problems.⁵²

The prosecuting attorney administers oaths⁵³ and performs the duties of notaries public.⁵⁴ He collects docket fees for his services in criminal prosecutions, divorce cases, suits on forfeited recognizances, and other suits which he is required to prosecute or defend.⁵⁵ He cannot represent applicants for liquor licenses.⁵⁶

The prosecuting attorney makes monthly reports to the board of commissioners concerning his activities and the amount of fees collected by him and turned over to the treasurer.⁵⁷ The state board of accounts prescribes the forms for an appearance record, fee book, and cashbook, to be kept by the prosecuting attorney, and a monthly report to be made by him.⁵⁸ The Delaware County Prosecuting Attorney states that he keep no records.

X. COUNTY ASSESSOR

The assessor of Delaware County is a statutory officer, elected for a four-year term by the voters of the county. He receives a certificate of election from the clerk of the circuit court and is not commissioned by the governor. He holds office until his successor has been elected and qualified. He must be an elector of the county, and have been a continuous resident freeholder of the county for at least four years

⁵⁰ 2 Rev. Stat. 1852, Acts 1895; Burns 8-202; Baldwin 3460. Chase v. Chase (1904), 163 Ind. 178, 71 N. E. 485.

⁵¹ Acts 1909; Burns, 1939 suppl., 28-5416, 28-5417; Baldwin, 1939 suppl., 14078-89b, 14078-89c.

⁵² Acts 1931, 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

⁵³ Acts 1901; Burns 49-2706; Baldwin 5462.

⁵⁴ Acts 1909; Burns 49-2507 to 49-2510; Baldwin 5463 to 5466.

⁵⁵ Acts 1875 (Spec. Sess.); Burns 49-2511; Baldwin 5468.

⁵⁶ Acts 1901, 1913; Burns 49-2713; Baldwin 5467.

⁵⁷ Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2605; Baldwin 7550.

⁵⁸ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner

before the date of his election; and, while holding the office of assessor, he must reside within the county and must not hold any other lucrative office. He must post bond in the amount of \$5,000, approved by and filed with the auditor,¹ and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.² The office of county assessor was established in its present form by an act of 1919.³

The assessor receives a salary of \$2,120 per year, plus \$2.50 for each day spent in conference with the state board of tax commissioners, together with actual railroad fare to and from the place of holding such conferences.⁴ He is entitled to reimbursement for expenses when temporarily working outside Delaware County under direction of the board of commissioners.⁵ He is not permitted to retain, as compensation for himself, any fees collected by him, other than as stated above.⁶

For sufficient legal grounds the assessor may be removed by the circuit court or the superior court, after trial by jury on an accusation presented by the grand jury or on an accusation verified by oath of any person; and such removal is subject to review by the supreme court.⁷ If the assessor is convicted of a felony the judgment of conviction must declare his office vacant.⁸ For incompetency, neglect of duty, or misconduct in office, the assessor may be removed by the state board of tax commissioners after a hearing by that board. After such removal the assessor may appeal to the circuit court or the superior court, and have a trial *de novo* on the charges on which he was removed.⁹

¹ Const., art. 2, sec. 9; art. 6, secs. 4, 6; art. 15, secs. 3, 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

² Const. 1816, art. 11, sec. Const., art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

³ Acts 1919, 1921; Burns 64-1101 to 64-1103; Baldwin 15696, 15698, 15699.

⁴ Acts 1933; Burns 49-1004, 49-1011; Baldwin 7534, 7541. Acts 1919; Burns 64-1103; Baldwin 15698.

⁵ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁶ Acts 1933; Burns 49-1005; Baldwin 7535.

⁷ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

Any vacancy in the office of assessor is filled by appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an assessor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁰

Subject to the approval of the board of commissioners, the assessor may appoint one or more deputies to serve no more than 30 days in any calendar year. The deputies each receive \$4 per day as compensation. They have the same qualifications, powers, and duties as the assessor, are subject to his control and direction, and must take the oath of office required of the assessor.¹¹ With the approval of the board of commissioners, the assessor may also employ clerical assistants who shall each receive compensation not exceeding \$5 per day, pursuant to appropriation by the county council.¹²

From the time of the organization of the county in 1827¹³ until 1841, assessors (often called listers) were appointed annually by the board of commissioners or board of justices, to list all property subject to taxation and to determine the value thereof (where the tax was based on value).¹⁴ Under an act of 1824, any person refusing to accept his appointment as assessor was subject to a penalty of \$25.¹⁵ An act of February 10, 1841 provided for the election of a county assessor in each county for a two-year term.¹⁶ The office of county assessor was abolished in 1852, and the duties thereof were transferred to township assessors elected for two-year terms.¹⁷ From 1841 to 1872, real property was assessed by appraisers appointed by the board of commissioners from time

¹⁰ Rev. Stat. 1843, ch. 7, sec. 61. Const., art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7031. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Acts 1919, 1921; Burns 64-1101; Baldwin 15636. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹¹ 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919; Burns 64-1102; Baldwin 15698.

¹² Acts 1933; Burns 49-1011; Baldwin 7541.

¹³ Acts 1826-27, ch. 10.

¹⁴ Acts 1817-18 (general), ch. 42, sec. 1. Rev. Laws 1824, ch. 86, secs. 5-7.

¹⁵ Rev. Laws 1824, ch. 86, sec. 29.

¹⁶ Acts 1840-41 (general), ch. 3, sec. 1.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 64; ch. 92, sec. 1.

to time as needed.¹⁸ The office of county assessor (elected for a two-year term) replaced that of appraiser in 1872;¹⁹ but in 1875 the office was abolished, and the duties were transferred to township assessors elected for two-year terms.²⁰ An act of March 6, 1891 re-established the office of county assessor. Under this law, the assessor was elected for a four-year term, and was not eligible for re-election until four years after the expiration of the term for which he was elected. He was required to be a resident freeholder and householder of the county not less than five years before the date of his election.²¹ In 1933 the office of township assessor was abolished in each township having a population not exceeding 5,000 (all townships except Center), and the duties of the office were transferred to the township trustee.²² Reference hereinafter to township assessors includes township trustees performing the duties prescribed by statutes for township assessors.

The duties of the county assessor are to examine tax duplicates and other records and papers in the offices of the auditor, treasurer, recorder, clerk, sheriff, and surveyor, together with the returns of the township assessors; to discover, list, and assess all omitted property of every kind, entering his valuations in a separate column on the township assessors' books; to advise and instruct the township assessors; to report to the state board of tax commissioners any incompetency or neglect of duty on the part of township assessors;²³ and determine the value of intangibles for taxes.²⁴ Under appointments by the circuit court, he serves as appraiser of estates in the administration of the inheritance tax law.²⁵ He appraises school property in accordance with laws concerning transfer of pupils from one school to another.²⁶ He is

¹⁸ Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.); ch. 2, sec. 1.

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

²⁰ Acts 1875, ch. 97, secs. 2, 7, 9.

²¹ Acts 1891, ch. 99, sec. 112.

²² Acts 1933; Burns 64-1031; Baldwin 15664.

²³ Acts 1919; Burns 64-1102; Baldwin 15698. *McConnell v. Hampton* (1905), 164 Ind. 547, 73 N. E. 1092.

²⁴ Acts 1933, 1935; Burns, 1939 suppl., 64-905; Baldwin, 1935 suppl., 15903.

²⁵ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1931, 1933; Burns 6-2408; Baldwin 15946.

²⁶ Acts 1901, 1909, 1915, 1921; Burns 28-3704; Baldwin 6288.

ex officio member and president of the county board of review.²⁷ His work is under the direction of the state board of tax commissioners.²⁸ Formerly the county assessor made out the assessment rolls (now made by the auditor),²⁹ took a census of deaf mutes in the county (now done by township assessors),³⁰ and kept a book showing the names of all blind, dumb, deaf, or insane persons in the county.³¹

Assessments by the county assessor under the property tax laws are subject to review by the county board of review. Such assessments are also reviewable by the circuit court or the superior court on the question of whether the property is taxable.³²

The assessor must return to the auditor, on or before the first Monday after July 4 each year, all township assessors' books, returns, lists, schedules, maps, and other papers received by him from the auditor, together with such additional lists, assessments, books, and papers as he has made thereto.³³ He is not required to keep any records permanently.³⁴

219. SCHEDULE OF PERSONAL PROPERTY, OMITTED, 1903-.

117 vols.

Schedules of property omitted from regular assessment lists and assessed by county assessor, showing dates of oath and filing, name, age, address and occupation of owner, number of polls and amount of personal assessments, and total tax. Arr. alph. by names of owners. No index. Hdw. 165 pp. 9 x 12 x 1½. 27 vols., 1903-25, attic stor. rm. 3; 3 vols., 1909-25, attic stor. rm. 8; 38 vols., 1912-14, 1926-33, bsmt. vt.; 3 vols., 1916-20, attic stor. rm. 7; 18 vols., 1934-, assr. off.; 28 vols., 1934-, twp. assr. off.

²⁷ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁸ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

²⁹ Rev. Laws 1824, ch. 86, secs. 4, 5, 7. Acts 1838-39 (general), ch. 14, secs. 14, 15. Rev. Stat. 1843, ch. 12, sec. 28. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

³⁰ Acts 1838-39 (general), ch. 41, sec. 1. Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

³¹ Acts 1849-50 (general), ch. 17, secs. 2, 3.

³² Acts 1881 (Spec. Sess.); Burns 4-203; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of limitation on the scope of the appeal was suggested by Philip Zoercher, chairman of the state board tax commissioner.

³³ Acts 1919; Burns 64-1102; Baldwin 15698.

³⁴ Interview of May 18, 1939 with E. P. Brennan, state examiner.

220. ADDITIONAL IMPROVEMENTS, 1902-. 21 vols.

Record of assessments of additional improvements to real property, showing date of assessment, name of property owner, location and description of property, and assessed valuation. Arr. chron. by dates of assessments. Indexed alph. by names of property owners. Hdw. 165 pp. 9 x 12 x 1½. 3 vols., 1902-16, attic stor. rm. 7; 7 vols., 1910-26, attic stor. rm. 3; 5 vols., 1924-33, bsmt. vt.; 6 vols., 1934-, twp. assr. off.

221. REGISTER OF DOGS, 1909-Apr. 20, 1912. 5 vols.

Deputy assessor's record of dog tax collections showing date of payment, name of owner, description of dog, and amounts paid or delinquent. Arr. alph. by names of owners. No index. Hdw. 125 pp. 8 x 5 x 1. Bsmt. vt.

222. RECORD OF UNCANCELLED MORTGAGES, 1899-Apr. 14, 1908. 3 vols. (1 vol. not labelled, 2, 3).

Record of unpaid mortgages, showing date of mortgage, names of mortgagor and mortgagee, description and location of property, amount and conditions of mortgage, and volume and page reference to Mortgage Record, entry 89. Arr. alph. by names of mortgagors. No index. Hdw. 400 pp. 18 x 12 x 3. Attic stor. rm. 5.

223. PLAT BOOK, 1932-. 2 vols.

Plats of real estate in Delaware County used by assessor to check taxable property, showing date drawn, names of property owners, township and city, and location, description and assessed valuation of property. Arr. by twps., cities and towns. For index, see entry 224. Hdw. 66 pp. 17 x 22 x 1. Assr. off.

224. [CARD INDEX TO PLAT BOOKS], 1932-. 8 f. b.

Index to Plat Book, entry 223, showing location and description of land and lots, names of owners, and volume and page reference to recording. Arr. alph. by names of owners. Hdw. 5 x 5 x 24. Assr. off.

225. CITY OF MUNCIE, 1928. 1 map.

Land tenure map of city of Muncie, showing date of map, names of subdivisions, and location and description of lands and lots. Drawn by Paul White. Published in Muncie. Mounted. Scale: 1" to 360'. 60 x 70. Assr. off.

XI. COUNTY BOARD OF REVIEW

The board of review of Delaware County, established

under an act of 1891¹ and re-established in 1919, is composed of the county assessor, auditor, and treasurer, and two freeholders of opposite political parties, appointed annually by the judge of the circuit court.² Each member must be an elector of the county, must have been an inhabitant thereof during one year next preceding his appointment, and must reside within the county while holding the office.³ Each member must take an oath that he will support the state and federal constitutions and will faithfully discharge his duties as a member of the board of review and will assess, review, and equalize the assessment of all property of the county according to the true cash value of such property.⁴ The assessor and auditor are, respectively, the president and secretary of the county board of review.⁵

The appointed members of the county board of review receive, as compensation, \$5 for each day actually served as members of the board. Allowance therefor is made by the board of commissioners on claims supported by the certificate of the assessor. The assessor, auditor, and treasurer receive no compensation, in addition to their regular salaries, for their services on the board of review. Before 1933, the auditor and treasurer received, in addition to their regular salaries, \$5 per day for each day actually served as members of the board.⁶

For sufficient legal grounds any member of the county board of review may be removed by the circuit court or the superior court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.⁷ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁸ The judge of the circuit

¹ Acts 1891, ch. 99, sec. 114.

² Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

³ Const., art. 6, secs. 4, 6.

⁴ Const., art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁵ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁶ Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

⁷ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

court fills vacancies as to members appointed by him.⁹ Any vacancy in the office of the other members is filled by replacement in the office of county assessor, auditor, or treasurer, as the case may be, the membership in the board of review being an incident to such office.¹⁰

Before 1919 duties analogous to those of the present board of review were performed by the following officers and boards: From the time of the organization of the county in 1827¹¹ to 1838, clerk of the circuit court and assessors or listers;¹² 1839, 1840, board of commissioners, clerk of the circuit court, and assessors or listers;¹³ 1841, board of commissioners, county assessor, and auditor (personal property only); 1841, board of equalization composed of board of commissioners, auditor, and appraiser (real estate only);¹⁴ 1842 to 1852, board of equalization composed of board of commissioners, county assessor, and auditor;¹⁵ 1853 to 1871, board of equalization composed of board of commissioners, auditor, and assessors (personal property only);¹⁶ 1853 to 1871, board of equalization composed of board of commissioners, auditor, and appraiser or appraisers (real estate only);¹⁷ 1872 to 1880, board of equalization composed of board of commissioners, county assessor, and auditor;¹⁸ 1881 to 1890, board of equalization composed of board of commissioners and four freeholders (from different parts of the county) appointed by the circuit judge;¹⁹ 1891 to 1894, board of review composed of county assessor, auditor, and treasurer;²⁰ 1895 to 1918, as at present, a board of review composed of county assessor, auditor,

⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹⁰ See the essays entitled "Auditor", "County Assessor", and "Treasurer."

¹¹ Acts 1826-27, ch. 10.

¹² Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8.

¹³ Acts 1838-39 (general), ch. 14, secs. 14, 15.

The editor substituted "clerk of the circuit court" for "auditor", in view of the last sentence of sec. 5 of said act, there being no auditor in Delaware County in 1839 or 1840.

¹⁴ Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 9, 13.

¹⁵ Acts 1840-41 (general), ch. 1, sec. 18.

¹⁶ 1 Rev. Stat. 1852, ch. 6, sec. 91. The Revised Statute of 1852 became effective on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

¹⁷ 1 Rev. Stat. 1852, ch. 35, sec. 2. Jones v. Cavins (1853), 4 Ind. 305.

¹⁸ Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278.

¹⁹ Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

²⁰ Acts 1891, ch. 99, sec. 114.

treasurer, and two freeholders appointed by the circuit judge.²¹

In townships having a population not exceeding 5,000 (all townships except Center), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference hereinafter to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.²²

The county board of review hears complaints of taxpayers concerning assessments (except those made by the state board of tax commissioners), reviews and corrects such assessments, equalizes property valuations, and makes assessments of omitted property. The tax list prepared by the county assessor and township assessors stand except in the particulars where it is changed by the board. The board has power to set aside the assessments for the whole county or a whole taxing unit therein and to order a new assessment by the county assessor and township assessors under instructions from the board.²³ The action of the board is subject to review by the state board of tax commissioners.²⁴ On questions of law concerning valuation of property, the decisions of the board of review and of the state board of tax commissioners may be reviewed by the circuit court or the superior court; and appeal (on law and facts) may be taken from the board of review to either of said courts on the question of whether property is taxable.²⁵

The board of review holds an annual meeting on the first Monday of June;²⁶ and the session can last 45 days.²⁷ A majority of all the members of the board constitutes a quorum for the transaction of business, and such majority must concur in decisions of the board. The auditor, as secretary, is required to keep full and accurate minutes of the

²¹ Acts 1895, ch. 36, sec. 2.

²² Acts 1933; Burns 64-1031; Baldwin 15664.

²³ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

²⁴ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

²⁵ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1927; Burns 64-1020; Baldwin 15686. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the limitation on the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

²⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁷ Acts 1919; Burns 64-1205; Baldwin 15704.

proceedings of the board.²⁸ The county assessor, as president, keeps an attendance record; and, at the close of the session, certifies to the board of commissioners the number of days actually served by each member.²⁹

226. BOARD OF REVIEW, 1891-. 3 vols. (1, 2 and 1 vol. not labelled).

Minutes of meetings and proceedings of the board of review, showing date of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by dates of meetings. No index. 1891-1914, hdw.; 1915-, typed. 500 pp. 12 x 14 x 3. 2 vols., 1891-Aug. 1932, aud. rec. rm. 1; 1 vol., Sept. 1932-, aud. off.

XII. COUNTY BOARD OF TAX ADJUSTMENT

The board of tax adjustment of Delaware County was established by an act of 1932¹ and re-established by acts of 1933² and 1937. It consists of seven members, chosen as follows: One member of the county council, selected by the council; the mayor of the city of Muncie or any public official of the city appointed by him; one member of the board of school trustees of the city of Muncie, selected by that board; and four citizens and freeholders of the county appointed before April 15 each year by the judges of the circuit court and superior court (each judge appointing two members), to hold office until April 15 of the following year. No more than four of the seven members of the board of tax adjustment may be members of the same political party. Each member must be an elector of the county, must have been an inhabitant thereof during one year next preceding his appointment, and must reside within the county while holding the office. The members serve without compensation. Each member must take an oath that he will support the state and federal constitutions and that he will faithfully discharge the duties of his office as member of the county board of tax adjustment. The board elects a chairman and a vice-chairman

²⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁹ Acts 1919; Burns 65-1204; Baldwin 15703.

¹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

² Acts 1933, ch. 237, sec. 4.

from among its members; and the auditor acts as clerk, but has no vote in its proceedings. The board may employ one of the examiners of the state board of accounts to assist in the duties of the board of tax adjustment; and the auditor pays, from county funds, the expenses in connection with such employment.³

The board established under the act of 1932 was composed of seven members, namely the auditor, three members of the county council (selected annually by the council), and three members appointed annually by the judge of the circuit court.⁴ The board established under the act of 1933 was composed of seven members appointed for one-year terms. One member was appointed by the county council from the members of the council. The other six members were appointed by the judge of the circuit court, as follows: A township trustee; the mayor of a city or the president of the board of trustees of a town; a member of the board of school commissioners, board of school trustees, or board of education of a school city or school town; and three resident freeholders of the county at large.⁵

For sufficient legal grounds any member of the county board of tax adjustment may be removed by the circuit court or the superior court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.⁶ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁷ A vacancy in the office of any member is filled in the manner provided by law for filling such office originally.⁸

The board of tax adjustment reviews budgets, tax levies, and tax rates adopted by the county council for the county and also those adopted by the several taxing units within the county.⁹

³ Const., art. 6, secs. 4, 6; art. 15, sec. 4, 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁴ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

⁵ Acts 1933, ch. 237, sec. 4.

⁶ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁷ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁸ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁹ Acts 1899; Burns 26-515; Baldwin 5379. Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

The action of the board of tax adjustment is subject to review by the state board of tax commissioners.¹⁰

Before 1932 no county officer or board performed duties analogous to those of the county board of tax adjustment, except that in 1920 such tax levies were reviewable by the county council.¹¹ Since 1919, with the exception of 1920, such budgets, tax levies, and tax rates have been reviewable directly by the state board of tax commissioners.¹² Before 1919 the sole remedy of a taxpayer to obtain a review of such budgets, tax levies, or tax rates was to apply to a court for an injunction.¹³

The board of tax adjustment meets on the second Monday in September each year, and from day to day thereafter as its business requires, and must complete its duties on or before October 1.¹⁴ The auditor, as clerk, keeps a complete record of all the proceedings of the board.¹⁵

227. [MINUTES OF TAX ADJUSTMENT BOARD], 1933-. In County Council Record, entry 31. Minutes of meetings of board of tax adjustment, showing date of meeting, names of members present, business discussed, and action taken.

XIII. BOARD OF FINANCE

The board of finance of Delaware County, created by an act of 1907¹ and re-created by the Depository Act of 1935² and the Depository Act of 1937, consists of the board of commissioners of Delaware County. The county auditor is secretary.³

¹⁰ Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

¹¹ Acts 1920 (Spec. Sess.), ch. 49, sec. 3. Interview of May 22, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

¹² Acts 1919, 1920 (Spec. Sess.); Burns 64-1303, 64-1329, 64-1330; Baldwin 15707, 15733, 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹³ Toledo & W. R. Co. v. Lafayette (1864), 22 Ind. 262; First Nat. Bank v. Greger (1901), 157 Ind. 479, 62 N. E. 21. Interview of May 22, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

¹⁴ Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹⁵ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

¹ Acts 1907, ch. 222, sec. 6. This act was repealed by Acts 1935, ch. 70, sec. 42.

² Acts 1935, ch. 70, secs. 7, 43. This act was repealed by Acts 1937, ch. 3, sec. 42.

³ Acts 1937; Burns, 1939 suppl., 61-629, 61-663; Baldwin, 1937 suppl., 13844-50, 13844-84.

For laws concerning eligibility, oath, and removal of these officers, see the essays on "Auditor" and Board of "Commissioners."

The county auditor and members of the board of commissioners receive no compensation for their services as secretary and members, respectively, of the board of finance. From 1907 to 1932, and in 1935 and 1936, the auditor received \$50 per year for serving in this capacity.⁴

Before 1907, no county officer or board performed duties analogous to those of the board of finance.⁵

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.⁶ It designates the banks and trust companies to serve as depositories for county funds,⁷ and for all fees and funds received by the clerk of the circuit court by virtue of his office.⁸ It may revoke the commission of any depository at any time.⁹ In the name of "The Board of Finance of Delaware County", the board may sue and be sued in any action in any court of competent jurisdiction.¹⁰

The board of finance holds an annual meeting on the third Monday in January, at which it elects its president;¹¹ it holds a biennial meeting on the third Monday in February, in the odd-numbered years, at which it considers proposals and designates depositories for the ensuing two-year period.¹² The board holds sessions whenever necessary to discharge its duties and accomplish the purposes of the laws governing it. A majority of the members constitute a quorum for the transaction of business. All meetings are open to the public.¹³

The board keeps, as permanent records, the depositories' monthly statements of deposits.¹⁴ The auditor, as secretary

⁴ Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

⁵ Interview of May 31, 1939 with E. P. Brennan, state examiner.

⁶ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

⁷ Acts 1937; Burns, 1939 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

⁸ Acts 1937; Burns, 1939 suppl., 61-673; Baldwin, 1937 suppl., 1438-1.

⁹ Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

¹⁰ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

¹¹ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

¹² Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

¹³ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

¹⁴ Acts 1937; Burns, 1939 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

of the board of finance,¹⁵ keeps a record of its proceedings. All records of the board are subject to public inspection.¹⁶

223. RECORD OF BOARD OF FINANCE, 1907-. 2 vols.

Minutes of meetings and proceedings of board of finance, showing date of meeting, names of members present, business discussed, and action taken. Arr. chron. by dates of meetings. No index. Hdw. 300 pp. 18 x 12 x 2. 1 vol., 1907-09, aud. rec. rm. 1; 1 vol., 1910-, aud. off.

XIV. COUNTY SCHOOL FUND BOARD

The school fund board of Delaware County was created by an act of 1935 and consists of the county auditor, the clerk of the circuit court, and one freeholder appointed by the judge of the circuit court for a two-year term. No more than two members of the board may be adherents of the same political party.¹ Each member must be an elector of the county, must have been an inhabitant thereof during one year next preceding his appointment, and must reside within the county while holding office.² Each member must take an oath that he will support the state and federal constitutions and will faithfully discharge his duties as a member of the county school fund board.³

The appointed member of the county school fund board receives, as compensation, two dollars for each loan made by the board, which amount is taxed as a part of the costs and is paid by the borrower. The auditor and the clerk of the circuit court receive no compensation, in addition to their regular salaries, for their services on the county school fund board.⁴

For sufficient legal grounds any member of the county school fund board may be removed by the circuit court or the superior court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such

¹⁵ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13344-50.

¹⁶ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13344-54.

¹ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

² Const., art. 6, secs. 4, 6.

³ Const., art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁴ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ The judge of the circuit court fills the vacancy as to the member appointed by him.⁷ Any vacancy in the office of the other members is filled by replacement in the office of the county auditor or clerk of the circuit court, as the case may be, the membership in the county school fund board being an incident to such office.⁸

Originally loans from the school funds of Delaware County were made by the county school commissioner, elected for a three-year term by the voters of the county, in accordance with an act of 1829. The school commissioner was a financial agent of the county to manage the school funds and the lands belonging thereto.⁹ In 1853 this office was abolished in Delaware County, and the duties thereof were divided between the auditor and the treasurer, under the direction of the board of commissioners.¹⁰ With the approval of the township trustees, the auditor had authority to make loans until 1935.¹¹

The common school fund, as established by the Constitution of 1851,¹² is kept by the auditor, in pursuance of an act of 1865, in two separate accounts:¹³ (1) The common school fund, consisting of moneys from the sale of escheated property, all lands granted to the state without a special object named in the grant, fines assessed by the courts, all moneys and lands formerly belonging to county seminaries, and all appropriations for schools, together with sundry minor funds; and (2) the Congressional township school fund, consisting of moneys from the sale of Congressional township school lands.¹⁴ Distribution of the common school fund is made biennially by the state to the counties on the basis of

⁵ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁸ See the essays entitled "Auditor" and "Clerk of the Circuit Court."

⁹ Acts 1828-29, ch. 84, secs. 8, 15.

¹⁰ Acts 1851-52, ch. 57, secs. 1, 2. 1 Rev. Stat. 1852, ch. 98, secs. 133, 137. Acts 1865, ch. 1, sec. 54.

¹¹ 1 Rev. Stat. 1852, ch. 98, secs. 34, 35. Acts 1865, ch. 1, sec. 75.

¹² Const., art. 8, sec. 2.

¹³ Acts 1865; Burns 28-105; Baldwin 6511.

¹⁴ Acts 1865; Burns 28-101; Baldwin 6499.

the average daily attendance of school children.¹⁵ Both funds are under the control of Delaware County and are loaned and managed by the county school fund board.¹⁶ The county is held liable for both principal and interest.¹⁷

All loans made by the county school fund board (except those made to the county) must be secured by mortgages on real estate. The board must satisfy itself, after approval of the title by the county attorney, as to the value of real estate offered in the mortgage, the validity of the title, and whether it is encumbered.¹⁸ Loans may be made to the county, on proper authorization by the county council, for a period not exceeding five years.¹⁹

Whenever more than \$5,000 in either fund remains unloaned in the county for six months, the county auditor must notify the auditor of state, and the unloaned moneys may be transferred to another county.²⁰

The auditor makes and keeps records of all loans made by the county school fund board.²¹ Once each quarter he publishes in a local newspaper a statement of the amount of school funds unloaned.²²

229. [SCHOOL FUND MORTGAGES], 1911-. 48 f. b. (labelled by first letter of mortgagors' surnames).

Papers pertaining to school fund loans, including:

- i. Applications for loans, showing date of application, name of applicant, location and description of property, amount of loan requested, assessed valuation of property, and date of approval.
- ii. Original mortgages executed to secure school fund loans, showing date, number, amount and conditions of mortgage, name of mortgager, and location and description of property.
- iii. Abstracts of titles to property mortgaged to secure school fund loans, showing date of abstract,

¹⁵ Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

¹⁶ Acts 1865; Burns 28-101 Baldwin 6499. Acts 1907; Burns 28-102; Baldwin 6500.

¹⁷ Acts 1865; Burns 28-104; Baldwin 6499-1.

¹⁸ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

¹⁹ Acts 1901; Burns 28-201, 28-202; Baldwin 6568, 6569.

²⁰ Acts 1901; Burns 28-206; Baldwin 6573.

²¹ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573.

²² Acts 1883, ch. 53, sec. 1. Acts 1899, ch. 95, sec. 1. Acts 1907; Burns 28-207, 28-202;

Baldwin 6556, 6557. Board of County Comrs. v. Leslie (1878), 63 Ind. 492.

names of past and present owners, and dates of all transfers.

Arr. num. by mortgage nos. No index. Hdw. and typed. 10 x 5 x 14. Aud. vt.

For other school fund records, see entries 90, 250-252, 299-309.

XV. TREASURER

The treasurer of Delaware County is a constitutional officer, elected for a two-year term by the voters of the county.¹ He is commissioned by the governor,² and holds office until his successor is elected and qualified.³ No person is eligible to the office of treasurer more than four years in any six-year period.⁴ The treasurer must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;⁵ and, while holding the office of treasurer, he must reside within the county, must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond, covering his duties as county treasurer, in an amount (determined by the board of commissioners) not less than the amount of money which may come into his hands at any time during his term. Said bond is approved by the board of commissioners and filed with the clerk of the circuit court.⁸ He must also post bond, in such amount and with such securities as the common council of the city of Muncie may determine and approve, covering his duties as ex officio treasurer of said city.⁹ He must take an oath that he will support the state and federal constitutions

¹ Const., art. 6, sec. 2. *Gemmer v. State ex rel. Stephens* (1904), 163 Ind. 150, 71 N. E. 478.

² *Ibid.*, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const., art. 15, sec. 3.

⁴ *Ibid.*, art. 6, sec. 2.

⁵ *Ibid.*, sec. 4.

⁶ *Ibid.*, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1905; Burns 10-3102; Baldwin 2636.

McCracken v. State (1867), 27 Ind. 491.

⁸ Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. *Pepper v. State ex rel. Harvey* (1864), 22 Ind. 399.

⁹ Acts 1905, 1909; Burns 48-6720; Baldwin 11524.

and will faithfully discharge the duties of his office.¹⁰

The treasurer receives from the county a regular salary of \$3,560 per year. He receives from the city of Muncie, for his services as ex officio city treasurer, a salary of \$720. In addition to his salaries aforesaid, he receives, as compensation for himself, six percent of all delinquent personal property taxes collected by him (exclusive of taxes collected for the city of Muncie) plus six percent of all delinquent taxes collected by him for the city of Muncie, plus a "demand fee" of 50 cents on each collection resulting from personal demand. From 1919 until 1933, he also received \$5 per day for each day actually served as member of the board of review of Delaware County.¹¹

For sufficient legal grounds, the treasurer may be removed by the circuit court or superior court, after trial by jury on an accusation presented by the grand jury or on an accusation verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the treasurer is convicted of a felony, the judgment of conviction must declare his office vacant.¹³ If the treasurer becomes officially delinquent and a suit is commenced on his official bond, he may be removed from office by the board of commissioners,¹⁴ but such removal is subject to review by the circuit court or superior court.¹⁵

Any vacancy in the office of treasurer is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a

¹⁰ Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹¹ Acts 1905, 1909; Burns 48-6720; Baldwin 11524. Acts 1933; Burns 49-1001, 49-1004, 49-1016; Baldwin 7531, 7534, 7546. Acts 1905; Burns 48-6701; Baldwin 11511. Acts 1933; Burns 48-1226; Baldwin 11467. Acts 1933, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl., 7536. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Town of Paoli v. Charles* (1905), 164 Ind. 690, 74 N. E. 508. *Opinions of the Attorney General of Indiana, 1934*, p. 313; *1935*, p. 130. Interview of August 1, 1939 with E. P. Brennan, state examiner.

¹² Const. art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

¹⁵ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277.

treasurer is elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁶

The treasurer may appoint one deputy without the approval of the board of commissioners, and may appoint additional deputies and assistants with such approval. The county council fixes the salaries of such deputies and assistants, and such salaries must be not less than \$75 nor more than \$200 per month.¹⁷ He may, at his own expense, employ other persons to collect delinquent personal property taxes by personal demand.¹⁸ The treasurer may require any deputy to give bond.¹⁹ The deputies must take the oath required of the treasurer, may perform all the official duties of the treasurer, and are subject to the same regulations and penalties.²⁰ The treasurer may remove such deputies and assistants at any time, and is responsible for their official acts.²¹

Beginning in 1827, the year in which Delaware County was created,²² the board doing county business, under statutory authority, annually appointed a county treasurer, who received and disbursed county funds.²³ Such disbursements were ordered paid by the board and attested by its clerk.²⁴ The treasurer did not collect taxes,²⁵ except the fee charged for tavern licenses²⁶ and for licenses for vending foreign

¹⁶ Const., art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin, 7061. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. Interview with Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939. *Beale v. State ex rel. Gray* (1874), 49 Ind. 41; *Weaver v. State ex rel. Sims* (1899), 152 Ind. 479, 53 N. E. 450.

¹⁷ Rev. Stat. 1843, ch. 12, sec. 153. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

¹⁸ Acts 1833, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl., 7536.

¹⁹ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

²⁰ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. *Lucas v. Shepherd* (1861), 16 Ind. 368.

²¹ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² Acts 1826-27, ch. 10.

²³ Acts 1816-17, ch. 17, secs. 1-3.

²⁴ *Ibid.*, sec. 3.

²⁵ *Ibid.*, sec. 10; ch. 19, secs. 9, 15, 16.

²⁶ *Ibid.*, ch. 17, sec. 7.

merchandise.²⁷ The allowance to the county treasurer for his services was one and one-half percent of all moneys received by him and one and one-half percent of all moneys paid out by him for the county, except moneys arising from the sale of lots at county seats, in which case he received no more than two percent both for receiving and paying out.²⁸ By an act of 1841, the treasurer became an elective officer for a three-year term, and since then has had charge of collecting taxes.²⁹

Before 1841, a tax collector, annually appointed by the board of commissioners, collected the taxes.³⁰ He delivered to the treasurer all funds collected by him, along with a list setting forth the amounts of moneys received by him in payment of taxes.³¹ He made and delivered to the clerk of the circuit court an alphabetical list of all white males over 21 years of age³² and filed with the clerk a report concerning the sale of lands for delinquent taxes.³³ The office of county treasurer became a constitutional office when the Constitution of 1851 was adopted.³⁴

The treasurer receives all moneys coming to the county and disburses the same on warrants issued by the auditor and countersigned by himself. He stamps on the warrant the name of the depository which is to pay it. He may pay the warrant out of funds in his office or require it to be presented to the depository for payment.³⁵ He collects taxes for the state and county and also for townships, cities, and towns in the county, as shown on the tax duplicate delivered to him by the auditor.³⁶ He sells real estate and personal property at

²⁷ *Ibid.*, sec. 4.

²⁸ Rev. Laws 1824, ch. 23, sec. 7.

²⁹ Acts 1840-41 (general), ch. 4, secs. 1, 13-22. *Ham v. State ex rel. Williams* (1844), 7 Blackford 344.

³⁰ Acts 1817-18 (general), ch. 42, sec. 14. Rev. Laws 1824, ch. 86, sec. 18.

³¹ Acts 1825, ch. 9, sec. 1.

³² Acts 1829-30, ch. 9, sec. 5.

³³ Rev. Laws 1824, ch. 86, sec. 36.

³⁴ Const., art. 6, sec. 2.

³⁵ Rev. Stat. 1843, ch. 7, sec. 79. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103, 49-3111; Baldwin 5550, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 18844-48. *State ex rel. Zable v. Benson* (1880), 70 Ind. 481.

³⁶ Acts 1897, ch. 54, sec. 1. Acts 1905; Burns 48-6701, 48-6702, 48-6705; Baldwin 11511 to 11513. Acts 1919; Burns 64-1403; Baldwin 15745. Acts 1919; Burns 64-1502; Baldwin 15748. *Standard Oil Co. v. Bretz* (1884), 98 Ind. 231.

public auction for delinquent taxes.³⁷ He also collects corporate taxes,³⁸ inheritance taxes,³⁹ and the excise tax on shares of stock and deposits of banks, trust companies,⁴⁰ and loan associations,⁴¹ and sells intangible tax stamps for the state board of tax commissioners.⁴² As ex officio treasurer of the city of Muncie, he is custodian of the pension funds of the police⁴³ and fire departments.⁴⁴

All public funds paid into the county treasury must be deposited by the treasurer daily in one or more depositories designated by the board of finance. The treasurer makes monthly reports to the board of finance showing the balance of funds at the end of the previous month—consistent with the statements furnished to the board by the depository;⁴⁵ makes quarterly reports to the board of commissioners and auditor showing the amount of money in the county treasury;⁴⁶ makes monthly reports to the auditor showing the total amount of cash payments received by him during the month and the respective accounts on which they were applied;⁴⁷ makes semi-annual settlements for taxes with the county auditor in May and November,⁴⁸ and in accordance therewith pays to the state treasurer in June and December all money due for state purposes;⁴⁹ and also makes payments to the state treasurer at other times.⁵⁰ He makes quarterly reports to the auditor

³⁷ Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. *Pay v. Shanks* (1877), 56 Ind. 554.

³⁸ Acts 1919; Burns 64-1801; Baldwin 15783.

³⁹ Acts 1931; Burns 6-2413; Baldwin 15951.

⁴⁰ Acts 1933; Burns 64-804; Baldwin 15585.

⁴¹ Acts 1933; Burns 64-827; Baldwin 15608.

⁴² Acts 1933; Burns 64-927; Baldwin 15925.

⁴³ Acts 1895, ch. 20, sec. 16. Acts 1925; Burns 48-6401; Baldwin 11817.

⁴⁴ Acts 1905; Burns 48-6512; Baldwin 11834.

⁴⁵ Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

⁴⁶ Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. Acts 1895, 1913; Burns 49-1403; Baldwin 7578. *Wolfe v. State ex rel. Kennard* (1883), 90 Ind. 16.

⁴⁷ Acts 1919; Burns 64-2101; Baldwin 15802.

⁴⁸ Acts 1919; Burns 64-2501; Baldwin 15850.

⁴⁹ Acts 1919; Burns 64-2503, 64-2504; Baldwin 15852, 15853.

⁵⁰ Acts 1859, 1861; Burns 49-1813; Baldwin 15059. Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

showing specifically the amount of fees collected;⁵¹ and deposits quarterly with the auditor all redeemed warrants.⁵²

The county treasurer is ex officio member of the board of review, which meets annually for the purpose of reviewing property tax valuations.⁵³

The treasurer must keep his office, books, and papers in a fireproof building (if available) and his office must be open for transaction of business during business hours.⁵⁴ He must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be open to public inspection.⁵⁵ He keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds.⁵⁶

Forms for the following books have been prescribed for county treasurers by the state board of accounts: Daily balance of cash and depositories; record of warrants by depositories; ledger of receipts and disbursements; register of taxes collected; record of bids for bonds; daily inventory of intangible tax stamps. This board has prescribed forms of blanks for treasurer's receipts, tax receipts, delinquent tax receipts, bank and building and loan intangible tax receipts, moratorium tax receipts, and monthly reports to county auditor.⁵⁷

The books and accounts of the treasurer are audited, from time to time without notice, by the state examiner.⁵⁸ Before 1909, the board of commissioners, at each regular session, audited the books of the treasurer.⁵⁹

⁵¹ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

⁵² 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

⁵³ Acts 1891, ch. 99, sec. 114. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁵⁴ 1 Rev. Stat. 1852; Burns 49-3106; Baldwin 5553. Acts 1853; Burns 49-3107, 49-3108; Baldwin 5556, 5557.

⁵⁵ Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 12844-44.

⁵⁶ Acts 1841-42 (general), ch. 4, sec. 5. 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

⁵⁷ Acts 1909; Burns 60-202; Baldwin 13855. Interview with E. P. Brennan, state examiner, on May 18, 1939.

⁵⁸ Acts 1909; Burns 60-211; Baldwin 13872.

⁵⁹ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Interview with E. P. Brennan, state examiner on May 18, 1939.

TAX COLLECTIONS

PERSONAL AND REAL PROPERTY

230. TAX DUPLICATE AND DELINQUENT LIST, 1877-. 342 vols. (dated).

Record compiled annually of all taxes payable and returned delinquent, showing date and number of duplicate, names of taxpayer and taxing unit, location and description of property, assessed valuation, amounts of real, personal and poll taxes, delinquency, penalty and interest, and amount of payment. This is a combination of two records formerly kept separately: Tax Duplicate, entry 231; Delinquent List, entry 239. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 600 pp. 18 x 36 x 4. 87 vols., 1877-78, 1894, 1900-1904, 1923-33, treas. vt.; 23 vols., 1879, 1888-89, 1916-17, attic stor. rm. 3; 162 vols., 1880-87, 1889-1915, attic stor. rm. 4; 35 vols., 1918-24, bsmt. vt.; 35 vols., 1934-, treas. off.

231. TAX DUPLICATE, 1845-67, 1869-71, 1874-76. 40 vols. (dated). 1877- in Tax Duplicate and Delinquent List, entry 230.

Record compiled annually of all taxes payable, showing date and number of duplicate, names of taxpayer and taxing unit, location and description of property, assessed valuation, and amounts of real, personal and poll taxes. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 600 pp. 18 x 24 x 4. 35 vols., 1845-51, 1853-54, 1856-58, 1860, 1862-64, 1866-67, 1869-71, 1874-76, treas. vt.; 1 vol., 1852, attic stor. rm. 5; 4 vols., 1855, 1859, 1861, 1865, attic stor. rm. 3.

232. TREASURER'S REGISTER OF TAXES COLLECTED, 1854-. 62 vols. (37 vols. not labelled, 1-25). Title varies: Cashbook, 1854-Oct. 1926, 51 vols.

Record of daily receipts of current and delinquent tax collections, showing date of payment, names of taxing unit and taxpayer, duplicate number, amounts of current, delinquent and special assessments, and total amount of taxes collected. Arr. chron. by dates of payments. No index. Hdw. 650 pp. 18 x 12 x 3. 44 vols., 1854-May 9, 1916, attic stor. rm. 8; 12 vols., May 10, 1916-26, attic stor. rm. 3; 6 vols., 1927-, treas. vt.

233. TAX DUPLICATE RECEIPTS, 1911-. 2,453 vols., 3 f. d. Copies of receipts issued for payment of real, personal and poll taxes, showing dates of receipt and payment, duplicate

number, amount of payment, name of payer, location and description of property, and amounts of assessed valuation and exemption. Arr. by taxing units, thereunder num. by receipt nos. No index. Hdw. Vols., 300 pp. 4 x 9 x 1½; f. d., 7 x 19½ x 22. 1,072 vols., 1911-28, attic stor. rm. 6; 731 vols., 1929-31, bsmt. vt. 650 vols., 3 f. d., 1932-, treas. vt.

INHERITANCE TAX (see also entries 106, 175)

234. INHERITANCE TAX RECORD, 1913-. 4 vols.

Stubs and carbon copies of receipts issued for payment of inheritance taxes, showing cause number, dates of decedent's death and payment, names of decedent and heirs, relationship of heir, amounts of tax, interest and discount, and total tax paid. Arr. num. by receipt nos. No index. Hdw. 300 pp. 28 x 12 x 3. Treas. vt.

INTANGIBLE TAX

235. RECORD OF RECEIPTS AND SALE OF INTANGIBLE TAX STAMPS, 1933-. 1 vol.

Daily inventory of intangible tax stamps, showing dates of receipt and sale, consignment number, quantity by denominations, and amounts received, sold and on hand. Arr. chron. by dates of receipts. No index. Hdw. 150 pp. 16 x 10 x 2. Treas. off.

PUBLIC IMPROVEMENTS (see also entries 28-30, 275-279, 381-385)

236. DITCH ASSESSMENT DUPLICATE, 1875-. 5 vols. Title varies: Ditch Tax Duplicate, 1875-Sept. 1903, 3 vols.

Record of assessments levied on real estate for construction and maintenance of ditches, showing dates payable and paid, receipt number, names of landowner and ditch, description and location of real estate, and amounts of assessment, interest and penalty paid. Arr. by names of ditches, thereunder alph. by names of landowners. No index. Hdw. 300 pp. 20 x 14 x 3. 3 vols., 1875-Sept. 1903, attic stor. rm. 4; 2 vols., Oct. 1903-, treas. vt.

237. DITCH RECEIPTS, 1928-. 6 f. b.

Copies of receipts issued for payment of ditch assessments, showing date, number and amount of receipt, names of ditch and payer, and description and location of property. Arr. by names of ditches, thereunder chron. by dates of receipts. No index. Hdw. 10 x 5 x 14. Treas. off.

238. TURNPIKE TAX DUPLICATE, 1867-May 11, 1873. 10 vols. Record of assessments levied for construction and maintenance of roads, showing duplicate number, name of property owner, location and description of property, amount of assessment, and date of payment. Arr. by twps., thereunder alph. by names of property owners. No index. Hdw. 200 pp. 14 x 10 x 2. Attic stor. rm. 5.

DELINQUENCIES

239. DELINQUENT LIST, 1834-76. 20 vols. (dated). 1877- in Tax Duplicate and Delinquent List, entry 230. Record of taxes returned delinquent, showing date of delinquency, duplicate number, names of taxpayer and taxing unit, location and description of property, and amounts of real and personal property and poll taxes delinquent. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 500 pp. 18 x 12 x 3. 5 vols., 1834-74, attic stor. rm. 4; 15 vols., 1860-62, 1870, 1873-76, treas. vt.

240. MORATORIUM TAX DUPLICATES, 1938-. 1 vol. Record of delinquent taxes on which payment has been deferred, showing name of taxpayer, date of moratorium, tax duplicate number, amounts of delinquent tax and interest due, date payable, total amount paid, location and description of property, and volume and page reference to Tax Duplicate and Delinquent List, entry 230. Arr. by names of taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 300 pp. 18 x 14 x 3. Treas. off.

241. TAX SALE REGISTER, 1908-. 1 vol. Treasurers' record of lands and lots sold for nonpayment of taxes, showing dates and amounts of sale and redemption, names of owner, purchaser and redeemer, certificate number, and description and location of property. Arr. num. by certificate nos. No index. Hdw. 200 pp. 18 x 12 x 3. Treas. vt.

RECEIPTS AND DISBURSEMENTS

242. DAILY BALANCE OF CASH AND DEPOSITORIES, 1908-. 24 vols. (1-24). Title varies: 1908-18, Daily Balance Record, 5 vols. Daily balance statements of all receipts and disbursements, showing date of statement, amounts of daily receipts and disbursements, amounts deposited, cash on hand, and total balance. Arr. chron. by dates of statements. No index. Hdw. 300 pp. 20 x 14 x 3. 1 vol., 1908-13, attic stor. rm. 5; 16

vols., 1914-32, attic stor. rm. 3; 6 vols., 1933-38, treas. vt.; 1 vol., 1939-, treas. off.

243. RECORD OF MONTHLY BALANCES, 1912-. 3 vols.

Record of monthly balances of all county revenue and miscellaneous funds, showing date of statement, name of fund, and amounts of receipts, disbursements and balance or overdraft. Arr. chron. by dates of statements. No index. Hdw. 150 pp. 18 x 16 x 2. 1 vol., 1912-24, attic stor. rm. 4; 1 vol., 1925-36, treas. vt.; 1 vol., 1937-, treas. off.

244. TREASURER'S LEDGER OF RECEIPTS AND DISBURSEMENTS, 1854-1911, 1925-. 11 vols. Title varies: Treasurer's Register of Receipts, 1854-1911, 8 vols.

Record of receipts and disbursements of county funds, showing date and amount of receipt or disbursement, names of payee or payer and fund, warrant or receipt number, and balance on hand. This is a combination of two records intercurrently kept separately: Register of Receipts, entry 245; Treasurer's Register of Disbursements, entry 246. Arr. by names of funds, thereunder chron. by dates of receipts and disbursements. No index. Hdw. 500 pp. 16 x 14 x 3. 8 vols., 1854-1911, attic stor. rm. 5; 3 vols., 1925-, treas. vt.

245. REGISTER OF RECEIPTS, 1912-24. 4 vols. 1854-1911, 1925- in Treasurer's Ledger of Receipts and Disbursements, entry 244.

Record of receipts of county revenue, showing date, number and amount of receipt, and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 150 pp. 16 x 24 x 3. Treas. vt.

246. TREASURER'S REGISTER OF DISBURSEMENTS, 1914-24. 8 vols. (1-8). 1854-1911, 1925- in Treasurer's Ledger of Receipts and Disbursements, entry 244.

Record of disbursements of county funds, showing date, number, amount and purpose of warrant, and names of payee and fund. Arr. chron. by dates of warrants. No index. Hdw. 220 pp. 16 x 20 x 2½. 4 vols., 1914-Feb. 1915, Nov. 1919-May 1921, Oct. 1922-24, attic stor. rm. 3; 1 vol., Mar. 1915-16, attic stor. rm. 4; 2 vols., 1917-Oct. 1919, bsmt. vt.; 1 vol., June 1921-Sept. 1922, treas. vt.

247. TREASURER'S REGISTER OF WARRANTS BY DEPOSITORIES, 1841-92, 1897-. 21 vols. (2-4, 10 vols. not labelled, 11, 12, 1-6). Title varies: Register of Orders, 1841-92, 1897-1908, 9 vols.; Treasurer's Register of Warrants, 1904-11, 2 vols.; Register of Checks Drawn, 1912-24, 4 vols.

Register of warrants drawn on depositories for disbursement of county funds, showing date, number, amount and purpose of warrant, and names of payee, fund and depository. Arr. num. by warrant nos. No index. Hdw. 400 pp. 16 x 14 x 3. 7 vols., 1841-92, attic stor. rm. 6; 2 vols. 1897-1903, attic stor. rm. 4; 2 vols., 1904-Jan. 24, 1908, Oct. 1916-21, attic stor. rm. 5; 1 vol., Jan. 25, 1908-11, attic stor. rm. 3; 1 vol., 1912-Sept. 1916, bsmt. vt.; 7 vols., 1922-37, treas. vt.; 1 vol., 1938-, treas. off.

248. APPLICATION TO PAY, 1908-. 8 f. b.

Applications to make payments to treasurer on accounts other than taxes, showing date, number, amount and purpose of application, and names of applicant and fund. Arr. chron. by dates of applications. No index. Hdw. 10 x 5 x 14. Treas. off.

249. COUNTY WARRANTS, 1918-. 18 f. b.

Cancelled warrants returned to treasurer by depositories, showing dates issued and paid, names of payee, appropriation, fund and depository, and number, amount and purpose of warrant. Arr. chron. by dates paid. No index. Typed. 10 x 5 x 14. Treas. vt.

SCHOOL FUNDS (see also entries 90, 229, 299-309)

250. REGISTER OF SCHOOL FUND LOANS, TREASURER, 1858-Nov. 12, 1917. 2 vols. Title varies: School Fund Record, 1858-81, 1 vol.

Record of receipts of principal and interest on school fund loans, showing date, number and amount of mortgage, name of mortgagor, location and description of property, amount of interest payments, and dates of payment of interest and principal. Arr. num. by mortgage nos. Indexed alph. by names of mortgagors. Hdw. 240 pp. 18 x 13 x 2. Attic stor. rm. 5

251. JOURNAL, TREASURER, 1858-81. 2 vols.

Daily record of receipts and disbursements of school fund revenue, showing date and amount of receipt or disbursement, names of payer or payee and fund, and receipt or order number. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 400 pp. 18 x 14 x 2. Attic stor. rm. 5.

252. LEDGER [Trust Funds], 1858-64. 1 vol.

Record of monthly balances of school and trust fund revenue, showing date of balance, name of fund, amounts of receipts and disbursements, and balance. Arr. chron. by dates of balances. No index. Hdw. 400 pp. 18 x 12 x 2. Attic stor. rm. 5.

MAPS

253. CITY OF MUNCIE, 1928. 1 map.

Communication map, showing lots, streets, railways and corporation lines. Drawn by Paul R. White. Published at Muncie. Black and white. Scale: 4" to 1 mi. 70 x 70. Treas. off.

254. CITY OF MUNCIE, 1916. 1 map.

Political and communication map, showing lots, streets, railways, additions and corporation lines. Drawn by B. F. Dearderff. Published at Muncie. Blueprint. No scale given. 40 x 40. Treas. off.

255. CITY OF MUNCIE, not dated. 1 map.

Political map, showing precincts and wards. Drawn by Lester Janney. Published at Muncie. Black and white. No scale given. 20 x 20. Treas. off.

XVI. AUDITOR

The auditor of Delaware County is a constitutional officer, elected for a four-year term by the voters of the county.¹ He is commissioned by the governor² and holds office until his successor is elected and qualified.³ No person is eligible to the office of auditor more than eight years in any 12 year period.⁴ The auditor must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;⁵ and, while holding the office of auditor, he must reside within the county, must not hold any other lucrative office, and must not practice law.⁶ He must post bond in the amount of \$10,000—approved by the board of commissioners and filed with the clerk of the circuit court—⁷ and take an oath that he will support the state

¹ Const., art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415.

² Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13025.

³ Const., art. 15, sec. 3. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. *Griebel v. State ex rel. Niezer* (1887), 111 Ind. 369, 12 N. E. 700.

⁴ Const., art. 6, sec. 2.

⁵ *Ibid.* sec. 4. *State ex rel. Jeffries v. Kilroy* (1882), 86 Ind. 118.

⁶ Const., art. 2, sec. 9; art. 6, sec. 6. Acts 1905; Burns 10-3102; Baldwin 2636. *State v. Allen* (1863), 21 Ind. 516; *Wells v. State ex rel. Peden* (1911), 175 Ind. 330, 94 N. E. 321.

⁷ Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-3003; Baldwin 5417.

and federal constitutions and will faithfully discharge the duties of his office.⁸

The auditor receives a regular salary of \$4,240 per year.⁹ In addition to his regular salary, he receives \$200 per year for services rendered for the city of Muncie; and from 1907 to 1932, and in 1935 and 1936, he also received \$50 per year for acting as secretary of the board of finance of Delaware County; and from 1919 until 1933, he also received \$5 per day for each day actually served as member of the board of review of Delaware County.¹⁰ He is not entitled to retain, as compensation for himself, any fees collected by him.¹¹

For sufficient legal grounds the auditor may be removed by the circuit court or the superior court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.¹² If the auditor is convicted of a felony the judgment of conviction must declare the office vacant.¹³

Any vacancy in the office of auditor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday on the first Monday in November in the even-numbered years), an auditor is elected for the remainder of the term in which the vacancy occurred, unless such term has expired. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁴

⁸ Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1652; Burns 49-101; Baldwin 13054.

⁹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 48-1226, 49-1001, 49-1004; Baldwin 11407, 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Opinions of the Attorney General of Indiana, 1934*, p. 313; *1936*, p. 130. Board of County Comrs. v. Johnson (1891), 127 Ind. 238, 26 N. E. 821; Tucker v. State *ex rel.* Board of County Comrs. (1904), 163 Ind. 403, 71 N. E. 140.

¹¹ Acts 1933; Burns 49-1005; Baldwin 7535. Workman v. State *ex rel.* Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

¹² Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Const., art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Douglass v. State *ex rel.* Wright (1869), 31 Ind. 429. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

The auditor may appoint one deputy without the approval of the board of commissioners, and may appoint additional deputies and assistants with such approval. The county council fixes the salaries and other compensation of such deputies and assistants, and the salaries must be not less than \$75 nor more than \$200 per month.¹⁵ The auditor may require any deputy to give bond.¹⁶ The deputies must take the oath required of the auditor, may perform all the official duties of the auditor, and are subject to the same regulations and penalties.¹⁷ The auditor may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁸

The office of auditor was created in Delaware County by an act of 1841 and became a constitutional office when the Constitution of 1851 was adopted. Under the act of 1841, the auditor was elected by the voters of the county for a five-year term.¹⁹

Ever since the creation of Delaware County in 1827,²⁰ there has been a clerk of the circuit court in the county.²¹ Most of the early duties of the auditor were transferred to him from the clerk,²² and included the clerk's previous duties as clerk of the board of commissioners,²³ as member of the boards performing duties like those of the present county board of review,²⁴ duties concerning taxation, finance, and county business,²⁵ duties concerning the empanelling of petit

¹⁵ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

¹⁷ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

¹⁹ Const., art. 6, sec. 2. Acts 1840-41 (general), ch. 2, sec. 1. Jones v. Cavins (1853), 4 Ind. 305.

²⁰ Acts 1826-27, ch. 10.

²¹ Const. 1816, art. 11, sec. 10. Const., art. 6, sec. 2.

²² Jones v. Cavins (1853), 4 Ind. 305.

²³ Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

²⁴ Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15.

²⁵ Acts 1811, ch. 37, sec. 3. Acts 1813, ch. 8, sec. 6. Acts 1813-14, ch. 32, sec. 2. Rev. Laws 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 29, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 174, sec. 1. Acts 1834-35 (general), ch. 10, sec. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

jurors and grand jurors,²⁶ and duties concerning elections.²⁷

From the time of the creation of the county in 1827,²⁸ until 1852, there was a county agent in Delaware County who performed various duties concerning county business, as required by the board of commissioners or board of justices, including the collection of donations for the county, purchase of land, equipment, and supplies, the sale of county property and collection of the purchase price thereof, and the making of contracts for public improvements. Originally he was appointed for an indefinite term by the board of commissioners or board of justices. From 1843 until 1852 he was appointed for a three-year term by the board of commissioners. In 1852 his office was abolished and his duties were transferred to the auditor.²⁹

The auditor is the financial agent of the county; and the routine administration of county affairs centers in his office, through which all financial transactions are conducted.

Claims against the county (for consideration by the board of commissioners) are filed with the auditor and presented by him to the board of commissioners.³⁰ A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.³¹ He publishes all such claims and allowances thereon and also all allowances against the county made by courts.³² On appeals from decisions of the board of commissioners, the auditor approves the appeal bond, prepares

²⁶ Acts 1841-42 (general), ch. 45, sec. 6. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

²⁷ Rev. Stat. 1838, ch. 32, secs. 18, 19. Acts 1834-35 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 45, sec. 8. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

²⁸ Acts 1826-27, ch. 10.

²⁹ Acts 1817-18 (special), ch. 1, sec. 2; ch. 2, sec. 1. Rev. Laws 1824, ch. 93, secs. 1, 2, 4, 6, 8, 9. Acts 1841-42 (general), ch. 67, sec. 2. Rev. Stat. 1843, ch. 4, sec. 48. Acts 1851-52 (special and local), ch. 2.

³⁰ Acts 1879 (Spec. Sess.); Burns 26-805.

³¹ Acts 1899; Burns 26-538; Baldwin 5403.

³² Acts 1875, ch. 18, sec. 1. Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817 to 26-819; Baldwin 5269 to 5271. *Cheney v. State ex rel. Risk* (1905), 165 Ind. 1821, 74 N. E. 892.

the transcript of proceedings, and transmits the bond, transcript, and all documents to the reviewing court.³³

The treasurer disburses money from the county treasury on warrants (formerly called orders) drawn by the auditor. The warrants are accompanied by a carbon copy except in the case of funds of the state and townships. If funds are available to pay a warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable.³⁴ If no funds are available to pay the warrant, the treasurer endorses thereon the date of the presentment and the words "not paid for want of funds"; and the warrant draws interest until the treasurer or auditor publishes a call for redemption.³⁵ The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.³⁶ The treasurer quarterly deposits all redeemed warrants with the auditor, for permanent filing, and takes his receipt therefor.³⁷

When the auditor draws a warrant, he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.³⁸ Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.³⁹ The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or

³³ 1 Rev. Stat. 1852; Burns 26-902, 26-903; Baldwin 5278, 5279. *Scotten v. Divelbiss* (1874), 46 Ind. 301; *Shirk v. Moore* (1884), 96 Ind. 199; *Strebin v. Lavengood* (1904), 163 Ind. 478, 71 N. E. 494; *Smith v. Gustin* (1907), 169 Ind. 42, 81 N. E. 722.

³⁴ 1 Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. Acts 1889; Burns 49-3007; Baldwin 5420. 1 Rev. Stat. 1852; Burns 49-3103, 49-311; Baldwin 5550, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³⁵ Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

³⁶ Rev. Stat. 1843, ch. 7, sec. 77. 1 Rev. Stat. 1852; Burns 49-3010, 49-3104; Baldwin 5423, 5551.

³⁷ Rev. Stat. 1843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

³⁸ Acts 1899; Burns 26-544; Baldwin 5409.

³⁹ 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Interview of August 15, 1939 with E. P. Brennan, state examiner.

person.⁴⁰ Before issuing a warrant or quietus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.⁴¹ The action of mandamus lies to compel the auditor to draw a warrant on the county treasury.⁴²

On claims allowed by courts for cost of administration of justice,⁴³ and on claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant.⁴⁴ But a warrant may be issued to pay a judgment, or for management of the school fund, or insanity inquests, or salaries or other liabilities for specific amounts fixed by law, when no claim therefor has been allowed as aforesaid.⁴⁵ A warrant not called for within five years after the allowance of the claim on which it was drawn may be cancelled by the board of commissioners if not called for after publication of notice.⁴⁶

The auditor is clerk of the board of commissioners,⁴⁷ the county council,⁴⁸ and the county board of tax adjustment,⁴⁹ and is secretary of the board of finance.⁵⁰ He is also a member and secretary of the county board of review,⁵¹ and a

⁴⁰ Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin, 5419.

⁴¹ Acts 1909; Burns 60-215; Baldwin 13866.

⁴² Gill v. State *ex rel.* Board of County Comrs. (1880), 72 Ind. 266.

⁴³ Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1881 (Spec. Sess.); 1903, 1913, 1927, 1933; Burns 4-3319, 4-3407; Baldwin 1277, 1286. Acts 1921, 1939; Burns, 1939 suppl., 4-5507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236. 1 Rev. Stat. 1852; Burns 9-2403; Baldwin 1306. Acts 1899; Burns 26-515, 26-527, 26-816; Baldwin 5379, 5391, 5238. Acts 1931; Burns 26-817, 26-818; Baldwin 5269, 5270. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128. 2 Rev. Stat. 1852; Burns 49-2709, 49-2804; Baldwin 1436, 5496.

⁴⁴ Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265.

⁴⁵ Acts 1897; Burns 26-809; Baldwin 5257. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Blue v. State *ex rel.* Powell (1936), 210 Ind. 426, 1 N. E. (2d) 122.

⁴⁶ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁴⁷ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53. Acts 1855, ch. 37, sec. 1. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

⁴⁸ Acts 1899; Burns 26-509; Baldwin 5373.

⁴⁹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁵⁰ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

⁵¹ Acts 1891, ch. 99, secs. 114, 116. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

member of the county school fund board.⁵² From 1841 to 1890 he was a member of the boards performing duties like those of the present county board of review.⁵³ Formerly the auditor was a member of the election board under the local option liquor laws,⁵⁴ and was clerk of the old-age pension boards.⁵⁵ Before 1841 the clerk of the circuit court acted as clerk of the board of commissioners and board of justices⁵⁶ and was a member of the boards performing duties like those of the present county board of review.⁵⁷

The township trustees quadrennially meet in the office of the auditor for the purpose of electing a county superintendent of schools. After notice given by the auditor, the trustees meet there at any time to fill a vacancy in such office. The auditor is clerk of the election and keeps a record thereof. In case of a tie vote, the auditor casts the deciding vote. The person elected files his oath of office and official bond with the auditor, who approves the bond. The auditor reports the election to the state superintendent of public instruction.⁵⁸

Formerly the auditor, recorder, and the clerk of the circuit court had charge of the Delaware County Library and constituted a board of trustees for that purpose. The board of trustees was authorized to elect one of its members treasurer, appoint a librarian, expend money appropriated by the board of commissioners for the county library, and make loans of the surplus library fund, and was required to make an annual

⁵² Acts 1865, 1835; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁵³ Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18. 1 Rev. Stat. 1852, ch. 6, sec. 91; ch. 35, sec. 2. Acts 1877, ch. 89, sec. 1. Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

⁵⁴ Acts 1908 (Spec. Sess.), ch. 2, sec. 5. Acts 1911, ch. 7, sec. 5. *Kunkle v. Coleman* (1910), 174 Ind. 315, 92 N. E. 61.

⁵⁵ Acts 1933, ch. 36, secs. 2, 9, 12 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

⁵⁶ Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6.

⁵⁷ Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15.

⁵⁸ Acts 1873, ch. 25, sec. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. *State ex rel. Nebecker v. Sutton* (1884), 99 Ind. 300; *State ex rel. Laughlin v. Porter* (1888), 113 Ind. 79, 14 N. E. 863; *State ex rel. Williams v. Edwards* (1888), 114 Ind. 581, 16 N. E. 627; *State ex rel. Drummond v. Dillon* (1890), 125 Ind. 65, 25 N. E. 136; *State ex rel. Morris v. McFarland* (1898), 149 Ind. 266, 49 N. E. 5.

report to the board of commissioners.⁵⁹ The county library has been discontinued.⁶⁰

If on account of death, sickness, or other casualty the judge of the circuit court or superior court fails for three consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.⁶¹

The auditor was authorized to fill vacancies in the former office of real estate appraiser.⁶²

When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them in the office of the auditor of each of such counties. The auditor and board of commissioners in each county then examine the returns, and if the proposed change of boundaries was carried at the election, the auditor enters an order to that effect in the order book of the board of commissioners.⁶³ The auditor makes a certificate of tax levies for the purpose of raising funds from the detached territory to pay the debts of the county from which it was detached.⁶⁴

Under former laws, the auditor delivered to the clerk of the circuit court the various papers involved in election contests heard by the board of commissioners, together with a transcript of the proceedings of the board;⁶⁵ he prepared blank forms of poll books and election returns, and delivered them to the inspectors of the election precincts;⁶⁶ after registration was required, he delivered the election supplies to the registration inspector of each precinct;⁶⁷ he kept the completed registration books and forms in his office, open

⁵⁹ Const., 1816, art. 9, sec. 5. Acts 1816-17, ch. 28; ch. 44, sec. 6. Rev. Laws 1824, ch. 60, sec. 9. Rev. Laws 1831, ch. 59, secs. 3, 9, 10. 1 Rev. Stat. 1852; Burns 41-503; Baldwin 10321 note. Acts 1861; Burns 41-507; Baldwin 10321 note. Traylor v. Dykins (1883), 91 Ind. 229.

⁶⁰ Commissioners' Record, 6:426.

⁶¹ Acts 1881 (Spec. Sess.), Burns 4-3103; Baldwin 1261.

⁶² Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

⁶³ Acts 1875; Burns 26-201; Baldwin 5032.

⁶⁴ Acts 1875; Burns 26-204, 26-205; Baldwin 5035, 5036.

⁶⁵ Acts 1816-17, ch. 9, sec. 22. Rev. Laws 1831, ch. 33, secs. 8, 9. Rev. Stat. 1843, ch. 5, sec. 103.

⁶⁶ Acts 1881 (Spec. Sess.); ch. 47, sec. 13.

⁶⁷ Acts 1911, ch. 150, sec. 5 (repealed by Acts 1913, ch. 185, sec. 25).

to public inspection;⁶⁸ and he filed in his office petitions for elections under the local option liquor laws.⁶⁹

Certified copies of the official oaths of all officers appointed by the board of commissioners, together with certified copies of oaths of such township officers (except justices and constables) as required by the board, are filed with the auditor.⁷⁰ When a bond is required of such officers, it also is filed with the auditor.⁷¹ The board of commissioners meets in the office of the auditor, at any time without notice or precept, for the purpose of approving official bonds which are required to be approved by the board.⁷² The official bond of the county assessor is approved by and filed with the auditor; and the assessor's official oath is administered by the auditor and endorsed on said bond.⁷³ The official bonds of all township trustees are approved by the auditor.⁷⁴

The auditor and his deputies are authorized to administer all oaths necessary in the performance of their duties.⁷⁵

Formerly petitions to have the surveyor removed from office were filed with the auditor for presentment to the board of commissioners.⁷⁶

Once every six years the township trustees and their assistants enumerate all white male inhabitants of the state over 21 years old.⁷⁷ Books and blanks, together with copies of the law requiring such enumerations, are furnished to the township trustees by the auditor.⁷⁸ The trustees' returns are filed in the office of the auditor.⁷⁹ The auditor examines the returns and, by orders recorded in a separate book,

⁶⁸ Acts 1911, ch. 150, sec. 13 (repealed by Acts 1913, ch. 185, sec. 25).

⁶⁹ Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5.

⁷⁰ Rev. Stat. 1843, ch. 4, sec. 84. 1 Rev. Stat. 1852; Burns 49-104; Baldwin 13057.

⁷¹ Rev. Stat. 1843, ch. 4, secs. 88, 89. 1 Rev. Stat. 1852; Burns 49-105; Baldwin 13058.

⁷² Acts 1851-52; Burns 49-123; Baldwin 13093.

⁷³ Acts 1919, 1921; Burns 64-1101; Baldwin 15636.

⁷⁴ Acts 1859, 1889; Burns 65-102; Baldwin 16060. Acts 1915; Burns 65-103; Baldwin 16061.

Copeland v. State ex rel. Davis (1890), 126 Ind. 51, 25 N. E. 866.

⁷⁵ 1 Rev. Stat. 1852; Burns 49-3013; Baldwin 5427.

⁷⁶ Rev. Stat. 1843, ch. 10, sec. 4.

⁷⁷ Acts 1853, ch. 41, secs. 1, 2. Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605; Baldwin 7490 to 7494.

⁷⁸ Acts 1844-45 (general), ch. 29, sec. 2. Acts 1853, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65 614; Baldwin 7503.

⁷⁹ Acts 1844-45 (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

corrects any errors, mistakes, or omissions discovered. For this purpose, he may subpoena and question witnesses.⁸⁰ The auditor then certifies the corrected enumerations to the auditor of state.⁸¹ Likewise there is a similar enumeration of colored male inhabitants. Separate lists are made; one is designated "white male inhabitants" and the other "colored male inhabitants."⁸²

In each township having a population not exceeding 5,000 (all townships except Center), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.⁸³

Each township assessor annually prepares lists of all persons in his township who are deaf, dumb, blind, idiotic, or insane, and returns the list to the auditor, who reports it to the state department of public welfare.⁸⁴

Formerly the township assessors were required to enumerate the families of soldiers, seamen, and marines in active service, and of those who died or were disabled in active service, and deliver the lists to the auditor.⁸⁵ Formerly township trustees made enumerations of children between the ages of five and 21 years and delivered them to the auditor, who delivered them to the state superintendent of public instruction.⁸⁶

The auditor keeps an account with each township showing expenditures and tax levies for poor relief, keeps reports of public welfare officials, and keeps records of county welfare funds.⁸⁷

⁸⁰ Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

⁸¹ Acts 1844-45 (general), ch. 29, sec. 5. Acts 1853, ch. 41, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-611; Baldwin 7500.

⁸² Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

⁸³ Acts 1933; Burns 64-1031; Baldwin 15664.

⁸⁴ Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

The foregoing laws require the report to be made to the state board of charities. In 1936 the duties of that board were transferred to the state department of public welfare. Acts 1936 (Spec. Sess.), ch. 3, sec. 11.

⁸⁵ Acts 1865, ch. 40, secs. 2, 3, 5. Acts 1923, ch. 4, sec. 1.

⁸⁶ Rev. Stat. 1843, ch. 15, sec. 25. Acts 1846-47 (general), ch. 94, sec. 2. Acts 1855, ch. 86, sec. 26.

⁸⁷ Acts 1895, ch. 120, sec. 2. Acts 1897, ch. 151, sec. 1 (repealed by Acts 1901, ch. 147.

Formerly the auditor, as clerk of the old-age pension board, issued certificates to applicants approved by the board, and delivered duplicates thereof to the auditor of state.⁸⁸

Articles of incorporation of humane societies are filed with the auditor and form the basis for the distribution of humane funds on warrants drawn by him.⁸⁹

Scalps of woodchucks, heads of owls, hawks, and crows, and eggs of crows are presented to the auditor with the statutory affidavits for the purpose of obtaining bounties thereon.⁹⁰

The auditor compiles budget estimates made by the county officers and boards, keeps them on file for one month subject to inspection by any taxpayer, and submits them with his recommendations to the county council at its annual meeting.⁹¹

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.⁹² The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for two years, and the auditor enters such lists on the order book of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the treasurer.⁹³

The auditor furnishes all parties with books, stationery, and blanks required in doing the public business pertaining to the auditor's office.⁹⁴

Specifications, bids, and contracts for materials and supplies required for county officials for the ensuing year

sec. 39). Acts 1901, ch. 147, secs. 11, 12, 19, 20 (all repealed by Acts 1935, ch. 116, sec. 38). Acts 1907, ch. 161, sec. 1 (repealed by Acts 1935, ch. 116, sec. 38). Acts 1935; Burns, 1939 suppl., 52-158; Baldwin, 1935 suppl., 13320-15. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1402; Baldwin, 1937 suppl., 14078-114.

⁸⁸ Acts 1933, ch. 36, sec. 12 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

⁸⁹ Acts 1913; Burns 9-2504, 9-2505; Baldwin 3805, 3806.

⁹⁰ Acts 1883; Burns 26-1102; Baldwin 5289. Acts 1911; Burns 26-1103; Baldwin 3802.

⁹¹ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

⁹² Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. Acts 1919; Burns 64-2101; Baldwin 15802.

⁹³ Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

⁹⁴ Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434.

are placed on file and kept in the auditor's office where they are open to public inspection.⁹⁵

When the county borrows money, the bonds or notes are executed by the county commissioners and are attested, advertised, and sold by the auditor. Printed copies of the ordinance authorizing the bond issue, together with specifications describing the bonds, are kept on file in the auditor's office, open to public inspection.⁹⁶ If the amount of a bond issue exceeds \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified by the auditor to the state board of tax commissioners for hearing and disposition.⁹⁷ Contracts for extension of time for payment of county or township bonds by issuance of "redemption bonds" are executed by the county commissioners and attested by the auditor, and one executed copy is kept by the auditor; and the auditor keeps a record of redemption bonds issued in pursuance of such contract.⁹⁸

The auditor, as relator, may sue, in the name of the state, to recover money owing to the county;⁹⁹ and the auditor may compromise the suits brought by him and receive the money agreed to be paid.¹⁰⁰

The auditor of state prepares maps or plats of the lands belonging to the state and located in the county, known as the swamp and indemnity lands, saline lands, and the lands escheated or forfeited to the state, and delivers them to the county auditor, who causes an appraisal thereof, registers the lands in a book kept for that purpose, and records the sales of such lands.¹⁰¹

⁹⁵ Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

⁹⁶ Acts 1899, 1921; Burns 26-540; Baldwin 5405.

⁹⁷ Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919-1920 (Spec. Sess.); 1921, 1923; Burns 64-1332; Baldwin 15736.

⁹⁸ Acts 1933; Burns 26-1015 to 26-1017; Baldwin 5353 to 5355.

⁹⁹ 1 Rev. Stat 1852; Burns 49-3017; Baldwin 5431. Rogers v. Gibson (1860), 15 Ind. 218; Scotten v. State ex rel. Simonton (1875), 51 Ind. 52; Yater v. State ex rel. Board of County Comrs. (1877), 58 Ind. 299; Hostetler v. State ex rel. Dean (1878), 62 Ind. 183; Vanarsdall v. State ex rel. Watson (1879), 65 Ind. 176; Gauntt v. State ex rel. Stout (1881), 81 Ind. 137; Heagy v. State ex rel. Forkner (1882), 85 Ind. 260; Demarest v. Holdeman (1901), 157 Ind. 467, 62 N. E. 17.

¹⁰⁰ Cabel v. McCafferty (1876), 53 Ind. 75; Vigo Twp. v. Board of County Comrs. (1887), 111 Ind. 170, 12 N. E. 305.

¹⁰¹ 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

The auditor prepares the ditch duplicate showing special assessments against lands for construction or repair of ditches and drains.¹⁰² He places on the tax duplicate assessments for flood gates,¹⁰³ and for the cutting or eradicating of Canada thistles.¹⁰⁴ Formerly petitions for drainage and levee improvements were filed with the auditor, and he gave notice to viewers and kept a record of all proceedings concerning such improvements.¹⁰⁵

The board doing county business (board of commissioners or board of justices) has always had power to establish, construct, repair, and vacate county roads.¹⁰⁶ The auditor, being clerk of said board, has always kept a record of road proceedings.¹⁰⁷ Road petitions are filed with the auditor for presentment to the board of commissioners.¹⁰⁸ When road viewers are appointed by the board, the auditor notifies the viewers and the county surveyor of their appointment and the time and place for their meeting.¹⁰⁹ Reports of road viewers are filed with the auditor, and the auditor enters road assessments on the tax duplicate or special assessment roll.¹¹⁰

¹⁰² Acts 1881 (Spec. Sess.), ch. 43, sec. 5 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1933; Burns 27-134; Baldwin 5770. *Storms v. Stevens* (1885), 104 Ind. 46, 3 N. E. 401; *Lockwood v. Ferguson* (1886), 105 Ind. 380, 5 N. E. 3; *Board of County Comrs. v. Fahlor* (1888), 114 Ind. 176, 15 N. E. 830.

¹⁰³ Acts 1903; Burns 27-703; Baldwin 5841.

¹⁰⁴ Acts 1929, 1937; Burns, 1939 suppl., 15-904; Baldwin, 1937 suppl., 3719.

¹⁰⁵ Acts 1881 (Spec. Sess.), ch. 44, sec. 2 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1891, ch. 196, secs. 2, 24. Acts 1897, ch. 138, secs. 1, 4. *Simonton v. Hays* (1882), 88 Ind. 70; *Vizzard v. Taylor* (1884), 97 Ind. 90; *White v. Fleming* (1888), 114 Ind. 560, 16 N. E. 487; *Cooper v. Ray* (1897), 148 Ind. 328, 47 N. E. 668.

¹⁰⁶ Acts 1816-17, ch. 8, secs. 1, 4-8, 10, 11, 15, 22. Acts 1817-18 (general), ch. 43, secs. 1, 23. Acts 1818-19, ch. 11, secs. 2, 7, 11, 12. Acts 1819-20, ch. 55, secs. 31, 33. Rev. Laws 1824, ch. 87, secs. 1, 4-7, 9, 12, 15, 24, 25. Rev. Laws 1831, ch. 20, sec. 22; ch. 82, secs. 1, 4, 6, 12, 14, 28, 47. 1 Rev. Stat. 1852, ch. 48. Acts 1881 (Spec. Sess.), chs. 61-64. Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

¹⁰⁷ Acts 1921; Burns 36-1451; Baldwin 8954. Acts 1905; Burns 36-1222; Baldwin 8823.

¹⁰⁸ Acts 1919, 1921; Burns 36-304; Baldwin 8862.

¹⁰⁹ Acts 1895, ch. 11, sec. 1. Acts 1905, 1907; Burns 36-1301; Baldwin 8787. *Turpin v. Eagle Creek & L. W. L. G. R. Co.* (1874), 48 Ind. 45.

¹¹⁰ Acts 1869 (Spec. Sess.), ch. 35, sec. 3. Acts 1877, ch. 46, sec. 3. Acts 1905, 1907; Burns 36-1301, 36-1305; Baldwin 8787, 8791. Acts 1921; Burns 36-1412; Baldwin 8915. *Florer v. McAfee* (1893), 135 Ind. 540, 35 N. E. 277; *Smyth v. State ex rel. Braun* (1902), 158 Ind. 332, 62 N. E. 449.

The highway supervisor files with the auditor requisitions (on forms prescribed by the state board of accounts) for all tools, implements, supplies, materials, and equipment needed for county roads.¹¹¹ Formerly the auditor annually delivered to the road supervisor a list of landowners of the county,¹¹² and annually delivered to each township trustee a list of all road taxes assessed against each individual in the township.¹¹³

Petitions for condemnation of schoolhouses, as unfit for use for school purposes, are filed with the auditor. The auditor mails and publishes notices of hearings, and calls special joint sessions of the board of commissioners and county council to hold hearings on such petitions.¹¹⁴

Formerly every fire insurance company doing business in Indiana, not organized under Indiana laws, was required to make semiannual reports to the county auditor showing premiums received by the company for fire insurance on property in the county, and showing all losses paid by the company for the last semiannual period.¹¹⁵ Formerly financial statements of banks were filed with the auditor.¹¹⁶

The auditor certifies to the city officials the number of taxable polls therein,¹¹⁷ and certifies to the treasurer the amount of excise tax due from financial institutions.¹¹⁸ For excise tax purposes, financial institutions deliver to the auditor each month a statement showing the number of its shares, amount of deposits, and kindred information.¹¹⁹ Inheritance taxes collected by the county treasurer are transmitted to the state treasurer by warrants drawn by the auditor.¹²⁰ The auditor is authorized to examine the records of the recorder and clerk of the circuit court to ascertain whether all persons have paid intangible taxes, and for this purpose may interrogate any person under oath and examine private records of such person.¹²¹

¹¹¹ Acts 1935; Burns, 1939 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1.

¹¹² Rev. Stat. 1843, ch. 16, sec. 105.

¹¹³ Acts 1883, ch. 56, sec. 20.

¹¹⁴ Acts 1931; Burns 28-3002 to 28-3004; Baldwin 6144 to 6146.

¹¹⁵ Acts 1891, ch. 192, sec. 1. On June 16, 1893, this act was held unconstitutional.

Henderson v. London & Lancashire Ins. Co. (1893), 135 Ind. 23, 34 N. E. 565.

¹¹⁶ Acts 1905, ch. 56, sec. 2 (repealed by Acts 1907, ch. 281, sec. 6).

¹¹⁷ Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

¹¹⁸ Acts 1933; Burns 64-810; Baldwin 15591.

¹¹⁹ Acts 1933, 1935; Burns, 1939 suppl., 64-807; Baldwin, 1935 suppl., 15588.

¹²⁰ Acts 1931; Burns 6-2414; Baldwin 15952.

¹²¹ Acts 1933; Burns 64-917; Baldwin 15915.

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes, each township assessor makes inquiry concerning dogs and kennels, and collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.¹²² The money so collected constitutes a fund known as the "dog fund" and is used to pay damage to livestock caused by dogs. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the first Monday in March, are transferred by the auditor on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.¹²³

The auditor issues licenses for peddlers, shows, theaters,¹²⁴ and transient merchants,¹²⁵ and permits for public warehouses.¹²⁶ Formerly he issued liquor licenses,¹²⁷ and received and filed remonstrances against issuance of saloon licenses by the board of commissioners.¹²⁸

The auditor takes a very important part in the administration of the property-tax laws. Annually the township assessors file with the auditor all returns of real and personal property made by them, together with all assessment lists, schedules, statements, maps, and other books and papers used by them in making such returns; and the county assessor obtains the same from the auditor to perform the county assessor's duties, but returns them to the auditor for permanent

¹²² Acts 1897, ch. 119. Acts 1925, ch. 144 (repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1923; Burns 16-301, 16-302; Baldwin 3826, 3827. Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

¹²³ Acts 1925, ch. 144, secs. 11-13 (all repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176, secs. 8-12 (all repealed by Acts 1937, ch. 133, sec. 16). Acts 1937; Burns, 1939 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8 to 3811-10.

¹²⁴ 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

¹²⁵ Acts 1901; Burns 42-402; Baldwin 10491. The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

¹²⁶ Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

¹²⁷ Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. Padgett v. State (1884), 93 Ind. 396.

¹²⁸ Acts 1905, ch. 6, sec. 1.

filing.¹²⁹ If a taxpayer refuses to make a personal-property tax return or an oath required by law, the township assessor makes a note of such refusal, and the auditor adds 50 percent to the personal property valuation returned by the assessor.¹³⁰ If a landowner fails to furnish a list of lands within five days after being called on by a township assessor, as notified to do, the township assessor may make a list according to the best information he can obtain, and the auditor must add 25 percent to the valuation of such lands as returned by the assessor.¹³¹ The auditor assesses omitted property, after giving notice to the taxpayer.¹³² For the purpose of the listing and assessment of omitted property, the auditor may, on filing proper affidavit in the circuit court and obtaining a writ directed to the sheriff, inspect the books and papers of taxpayers.¹³³ Acting for the county board of review, he gives notice to taxpayers in order that the board may assess omitted property or raise valuations.¹³⁴ Appeals from the county board of review to the state board of tax commissioners are usually heard in the office of the auditor.¹³⁵ Formerly the auditor annually notified all township assessors to meet in the auditor's office to agree on a uniform rate of assessment.¹³⁶ Formerly railroad companies annually filed with

¹²⁹ Rev. Stat. 1843, ch. 12, secs. 28, 41. Acts 1850-51 (general), ch. 5, secs. 12, 19; ch. 9, secs. 5, 8. Acts 1858 (Spec. Sess.), ch. 2, sec. 20. Acts 1891, ch. 99, secs. 101, 105. Acts 1919; Burns 64-1019, 64-1023, 64-1029, 64-1102; Baldwin 15685, 15689, 15694, 15698. Interview of May 18, 1939, with E. P. Brennan, state examiner.

¹³⁰ Acts 1919; Burns 64-610; Baldwin 15578.

¹³¹ Acts 1919; Burns 64-1008; Baldwin 15674.

¹³² Acts 1840-41 (general), ch. 1, sec. 9. Acts 1889, ch. 183, sec. 1. Acts 1919; Burns 64-1402; Baldwin 15739. *Scott v. Knightstown* (1882), 84 Ind. 108; *Lang v. Clapp* (1885), 103 Ind. 17, 2 N. E. 197; *Vandercook v. Williams* (1885), 106 Ind. 345, 1 N. E. 619; *Williams v. Segur* (1885), 106 Ind. 368, 1 N. E. 707; *McKeen v. Haskell* (1886), 108 Ind. 97, 8 N. E. 901; *Board of County Comrs. v. Senn* (1889), 117 Ind. 410, 20 N. E. 276; *Florer v. Sherwood* (1891), 128 Ind. 495, N. E. 71; *Hennel v. Board of County Comrs.* (1892), 132 Ind. 32, 31 N. E. 462; *Florer v. Sheridan* (1894), 137 Ind. 28, 36 N. E. 365; *Cummings v. Stark* (1893), 138 Ind. 94, 34 N. E. 444; *Thiebaud v. Tait* (1894), 138 Ind. 238, 36 N. E. 525; *Eaton v. Union County Nat. Bank* (1895), 141 Ind. 136, 40 N. E. 668; *Buck v. Miller* (1896), 147 Ind. 586, 45 N. E. 647; *Miller v. Volmer* (1899), 153 Ind. 26, 53 N. E. 949; *Crowder v. Riggs* (1899), 153 Ind. 153, 53 N. E. 1019; *Parkison v. Thompson* (1905), 164 Ind. 609, 73 N. E. 109; *Darnell v. State* (1910), 174 Ind. 143, 90 N. E. 769.

¹³³ Acts 1891, ch. 99, sec. 34. Acts 1919; Burns 64-1026; Baldwin 15549.

¹³⁴ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹³⁵ Acts 1919, 1925; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, Tax Rule 6.

¹³⁶ Acts 1889, ch. 108, sec. 1 (repealed by Acts 1891, ch. 99, sec. 259).

the auditor, for taxation purposes, complete inventories of assets.¹³⁷

The auditor annually makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. In each township having a population of 25,000 (Center Township) or containing a city of the second class, these lists are made out by the township assessor and furnished to the auditor, who returns them to the township assessor after making the tax duplicate.¹³⁸ The auditor makes plats of the several townships showing ownership, improvements, and assessed valuations of the parcels therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.¹³⁹ The auditor keeps a record of all lands classified by the state forester as "forest plantations" or "native forest lands" to obtain special rules or rates for tax assessments.¹⁴⁰

For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or petition, names of parties, and post-office addresses of grantees. A fee of 10 cents is charged for each instrument so entered. No such deed or partition can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.¹⁴¹ On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.¹⁴² The auditor corrects on the tax books any errors as to description of property and names of owners.¹⁴³

¹³⁷ Acts 1891, ch. 99, sec. 83.

¹³⁸ Acts 1840-41 (general), ch. 1, sec. 4; ch. 2, sec. 12. Acts 1841-42, ch. 60, sec. 4. Rev. Stat. 1843, ch. 12, sec. 27. Acts 1858 (Spec. Sess.), ch. 2, sec. 5. Acts 1891, ch. 99, sec. 93. Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

¹³⁹ *Ibid.*

¹⁴⁰ Acts 1899, ch. 256, sec. 9. Acts 1921; Burns 32-304, 32-306; Baldwin 15517-4, 15517-6.

¹⁴¹ Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

¹⁴² Acts 1921; Burns 64-519; Baldwin 14777.

¹⁴³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

Forms and instructions for taxation purposes are prescribed by the state board of tax commissioners and delivered to the auditor.¹⁴⁴ The auditor furnishes the township assessors with all necessary books and blanks for the use of the township assessors in making assessment of real and personal property.¹⁴⁵ If a township assessor assesses real estate or improvements found omitted, he makes a return thereof to the auditor as of the year when the same should have been first assessed.¹⁴⁶ The auditor makes assessment of any newly platted land additions to any city or town.¹⁴⁷

The auditor makes certificates as to the required number of signers of petitions filed by groups of taxpayers with the state board of tax commissioners to obtain a re-assessment of real estate.¹⁴⁸

Sworn statements to obtain mortgage exemptions on assessment of real estate are filed with the auditor.¹⁴⁹ Sworn statements of volunteer firemen¹⁵⁰ and disabled veterans¹⁵¹ are also filed with the auditor to obtain tax exemptions. Applications for tax exemptions for educational, charitable, religious, fraternal, literary, and scientific organizations are filed with the auditor, who refers them to the board of review for approval.¹⁵²

Annually the auditor apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.¹⁵³ After the county council, at its annual meeting,

¹⁴⁴ Acts 1919; Burns 64-2603; Baldwin 15866.

¹⁴⁵ Acts 1858 (Spec. Sess.), ch. 2, sec. 23. Acts 1891, ch. 99, secs. 53, 101. Acts 1903, ch. 29, sec. 32. Acts 1899; Burns 26-543; Baldwin 5408. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1879 (Spec. Sess.), Burns 49-3018; Baldwin 5434. Acts 1919; Burns 64-1007, 64-1016; Baldwin 15672, 15682.

¹⁴⁶ Acts 1840-41 (general), ch. 2, sec. 12. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

¹⁴⁷ Acts 1919; Burns 64-1027; Baldwin 15691.

¹⁴⁸ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

¹⁴⁹ Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567.

¹⁵⁰ 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1939 suppl., 43-6161; Baldwin, 1939 suppl., 12653-1.

¹⁵¹ Acts 1927; Burns 64-206; Baldwin 10987.

¹⁵² Acts 1937; Burns 1939 suppl., 64-213; Baldwin, 1937 suppl., 15513-2.

¹⁵³ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

adopts a budget, establishes a tax rate, and makes tax levies for the succeeding calendar year, the auditor schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.¹⁵⁴ The decision of the state board of tax commissioners on an appeal from the county council's action in adopting budgets and tax levies is certified to the auditor and he certifies it to the taxing units interested therein.¹⁵⁵

Annually each municipal corporation of the county files with the auditor a statement of tax levies and rates for the ensuing year, fixed by such municipal corporations, and copies of the budgets on which such levies are based.¹⁵⁶ At the annual meeting of the board of tax adjustment, the auditor lays before the board these budgets, tax levies, and rates.¹⁵⁷ If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the tax levies and rates within the statutory limits, the auditor calculates and fixes the rates and certifies his action to each municipal corporation.¹⁵⁸ The decision of the state board of tax commissioners on an appeal from the action of the board of tax adjustment is certified to the auditor.¹⁵⁹

The auditor certifies to the state board of tax commissioners all emergency appropriations made by the county council, together with tax levies based thereon.¹⁶⁰

After the assessment, budgets, tax rates, and tax levies have been made, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate, and a complete tax abstract of all property listed in each township, city, and town. He keeps a copy of the abstract in his office, and delivers another copy thereof to

¹⁵⁴ Acts 1389; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹⁵⁵ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹⁵⁶ Acts 1933; Burns 64-302; Baldwin 15893. Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

¹⁵⁷ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

¹⁵⁸ Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

¹⁵⁹ Acts 1937; Burns, 1939 suppl., 64-314; Baldwin, 1937 suppl., 15897-8.

¹⁶⁰ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1919, 1920 (Spec. Sess.); 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

the auditor of state.¹⁶¹ Semiannually the county auditor delivers to the county treasurer and to the treasurer of each city, town, and township in the county, a complete list of all persons reported as delinquent in the payment of taxes, as shown by the tax duplicate.¹⁶² Formerly a separate list of delinquent taxes was delivered by the county auditor to the auditor of state, but now, and for many years last past, the only lists so delivered are those that are set forth in the tax abstract.¹⁶³

The auditor annually makes out and records in a book, provided for that purpose, a list of lands delinquent for taxes, charges interest and a penalty of 10 percent thereto, publishes and posts the list with a notice of tax sale, includes a copy of the notice in his record, and certifies on his record the time and manner of such publication and posting.¹⁶⁴ The auditor, in person or by deputy, attends the treasurer's tax sales of delinquent lands, keeps a record of the sales, and issues certificates to the purchasers.¹⁶⁵ The auditor acts as arbiter in case of partial redemption of land from tax sale.¹⁶⁶ When lands are redeemed from tax sale, he issues a certificate of redemption and keeps a record of all redemptions.¹⁶⁷ The auditor executes all tax deeds of land, and keeps a record thereof.¹⁶⁸ He issues a warrant for a

¹⁶¹ Acts 1840-41 (general), ch. 1, secs. 12, 14; ch. 2, secs. 17, 22. Rev. Stat. 1843, ch. 12, secs. 44, 50, 51, 133. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745. Standard Oil Co. v. Bretz (1884), 98 Ind. 231; Adams v. Davis (1886), 109 Ind. 10, 9 N. E. 162; Smith v. Smith (1902), 159 Ind. 388, 65 N. E. 183.

¹⁶² Rev. Stat. 1843, ch. 12, sec. 68. Acts 1911, ch. 234, sec. 1. Acts 1919; Burns 64-1505; Baldwin 15767.

¹⁶³ Rev. Stat. 1843, ch. 12, sec. 68. Interview of June 29, 1939 with Frank G. Thompson, auditor of state.

¹⁶⁴ Acts 1840-41 (general), ch. 2, secs. 26, 28-30. Acts 1879 (Spec. Sess.), ch. 96, sec. 3. Acts 1883, ch. 76, sec. 1. Acts 1919; Burns 64-2201; Baldwin 15806. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807, Abbott v. Edgerton (1876), 53 Ind. 196; Stropes v. Board of County Comrs. (1880), 72 Ind. 42.

¹⁶⁵ Acts 1840-41 (general), ch. 2, secs. 33, 34. Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. 1 Rev. Stat. 1852, ch. 6, sec. 177. Acts 1919; Burns 64-2209, 64-2210; Baldwin 15816, 15817. Gable v. Seiben (1894), 137 Ind. 155, 36 N. E. 844.

¹⁶⁶ Acts 1919; Burns 64-2308; Baldwin 15826.

¹⁶⁷ Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919; Burns 64-2313; Baldwin 15831.

• ¹⁶⁸ Acts 1840-41 (general), ch. 2, secs. 37, 44. Acts 1919; Burns 64-2404 to 64-2409; Baldwin 15833 to 15838. Reid v. State *ex rel.* Thompson (1881), 74 Ind. 252; Smith v. Kyler (1881), 74 Ind. 575; Woolen v. Rockafeller (1881), 81 Ind. 208; Lancaster v. De Hadway (1884), 97 Ind. 565; Rowe v. Peabody (1885), 102 Ind. 198, 1 N. E. 353.

refund to persons paying illegal or erroneous taxes and also to purchasers at void tax sales.¹⁶⁹ Annually a list of lands offered at tax sale three years successively, on which there was no bid equal to the amount of taxes due thereon, is prepared by the treasurer, certified by the auditor, and delivered to the prosecuting attorney.¹⁷⁰

The state's share of taxes collected by the county treasurer is disbursed to the proper state officers on warrants drawn by the auditor on the county treasury.¹⁷¹

The auditor manages the common school and Congressional township school funds,¹⁷² with the exception of making loans. The school fund board, composed of the auditor, clerk of the circuit court, and another person appointed by the judge of the circuit court, now makes all the loans from the school funds.¹⁷³ Whenever a school township is divided by a county line, the auditor makes all adjustments of land, accounts, and distribution of pupils.¹⁷⁴ If no election is held for the purpose, the auditor conducts the sale of school lands,¹⁷⁵ also resales of forfeited lands.¹⁷⁶ He makes the same entries of record required by law for loans to private individuals when the county borrows from the surplus funds.¹⁷⁷ Once each quarter, the auditor publishes in a local newspaper the amount of school funds unloaned.¹⁷⁸

A certificate must be filed with the auditor showing that there is no encumbrance or lien on land offered as security for a loan of school funds.¹⁷⁹ The auditor specifies

¹⁶⁹ Acts 1919; Burns 64-1407, 64-2411, 64-2819; Baldwin 15744, 15840, 15881. *Wolfe v. State ex rel. Kennard* (1883), 90 Ind. 16.

¹⁷⁰ Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1919; Burns 64-1518; Baldwin 15772.

¹⁷¹ Acts 1877, ch. 90, sec. 1. Acts 1907, 1911; Burns 61-620; Baldwin 13824 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

¹⁷² Acts 1855, ch. 86, sec. 155. Acts 1861, ch. 41, secs. 122, 160. Acts 1865, 1907; Burns 28-101, 28-102, 28-105; Baldwin 6499, 6500, 6511.

¹⁷³ Rev. Stat. 1843, ch. 13, sec. 45. Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

¹⁷⁴ Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510.

¹⁷⁵ Acts 1865, 1875; Burns 28-122 to 28-124; Baldwin 6553, 6528, 6529.

¹⁷⁶ Acts 1863, 1865; Burns 28-125, 28-126, 28-129 to 28-133, 28-135 to 28-137, 28-140 to 28-143, 28-145, 28-146; Baldwin 6530, 6531, 6538, 6539, 6534, 6535, 6540, 6542 to 6544, 6547 to 6550, 6552, 6554.

¹⁷⁷ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573.

¹⁷⁸ Acts 1883, ch. 58, sec. 1, p. 75. Acts 1899, ch. 95, sec. 1, p. 126. Acts 1907; Burns 28-207, 28-208; Baldwin 6556, 6557. *Board of County Comrs. v. Leslie* (1878), 63 Ind. 492.

¹⁷⁹ Acts 1881 (Spec. Sess.); Burns 28-210; Baldwin 6580.

in the mortgage whether it belongs to the common school fund or to the Congressional township fund, and, if the latter, the particular township or townships whose funds are loaned.¹⁸⁰ Payments are made to the treasurer, and his receipt is filed with the auditor who gives the payer a quietus therefor and makes the proper entries of record.¹⁸¹ The auditor issues a quitclaim deed whenever there is a defect in the title of the owner of land in a school section resulting from destruction of public records.¹⁸² He enforces the collection of defaulted payments.¹⁸³ Whenever the auditor is unable to sell lands acquired through default, the county may pay the loan, accept the land, and take possession thereof.¹⁸⁴

The auditor makes an annual report to the board of commissioners showing the condition and activity of the school funds. The board examines the report, makes a written report of such examination, enters it of record, and transmits copies to the state superintendent of public instruction.¹⁸⁵ Where the whole or part of the school funds of the county have been loaned, the auditor apportions to each Congressional township a sufficient number of mortgages to cover the principal of its Congressional township fund.¹⁸⁶ A miscellaneous school fund may be created by the auditor to enable him to aggregate small sums from school funds for one loan. He shows in his report the distribution of funds in full, and is liable to suit on his official bond for any failure to do so.¹⁸⁷

The auditor keeps records of all financial transactions of the county. He keeps fee books, cashbooks,¹⁸⁸ warrant

¹⁸⁰ Acts 1865; Burns 28-230 to 28-232; Baldwin 6587 to 6589.

¹⁸¹ Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

¹⁸² Acts 1915; Burns 28-239; Baldwin 5435.

¹⁸³ Rev. Stat. 1843, ch. 13, sec. 96, p. 252. Acts 1855, ch. 86, sec. 36. Acts 1865, 1885 (Spec. Sess.), 1889, 1933; Burns 28-240 to 28-244, 28-246 to 28-249; Baldwin 6586, 6585, 6595 to 6597, 6599 to 6601, 6594. *Webb v. Moore* (1865), 25 Ind. 4; *Key v. Ostrander* (1867), 29 Ind. 1; *Bonnell v. Ray* (1860), 71 Ind. 141; *Willson v. Brown* (1882), 82 Ind. 471; *Benefiel v. Aughe* (1884), 93 Ind. 401; *Shannon v. Hay* (1886), 105 Ind. 589, 7 N. E. 376; *Winstandley v. Crim* (1839), 117 Ind. 328, 20 N. E. 833; *Haynes v. Cox* (1889), 118 Ind. 184, 20 N. E. 758; *Work v. State ex rel. Holland* (1889), 120 Ind. 119, 22 N. E. 127; *State ex rel. Longfellow v. Wimer* (1906), 166 Ind. 530, 77 N. E. 1078.

¹⁸⁴ Acts 1899; Burns 28-250 to 28-256; Baldwin 6602 to 6608.

¹⁸⁵ Acts 1855, ch. 86, secs. 88, 95. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

¹⁸⁶ Acts 1865; Burns 28-263; Baldwin 6615.

¹⁸⁷ Acts 1879; Burns 28-264 to 28-266; Baldwin 6616 to 6618.

¹⁸⁸ Acts 1940-41 (general), ch. 2, sec. 27. Acts 1891, ch. 124, sec. 124. Acts 1895; Burns 49-1401; Baldwin 7576.

books,¹⁸⁹ cancelled warrants,¹⁹⁰ fee reports of county officers,¹⁹¹ and township trustees' reports of receipts and disbursements (accompanied by vouchers).¹⁹² He keeps separate accounts for each specific item of appropriation by the county council¹⁹³ and an account current, with the treasurer, of county funds.¹⁹⁴ He keeps a record of all the boards of which he is clerk or secretary, and must preserve the documents, books, papers, and maps deposited in his office.¹⁹⁵ If any map or plat in his office becomes worn or defaced, he makes a new copy thereof.¹⁹⁶ He takes copies of such maps or plats in the recorder's office as may be necessary for the discharge of the auditor's official duties.¹⁹⁷ He keeps a record of the costs of change of venue in judicial proceedings.¹⁹⁸ He keeps a record of the appraisement and sale of swamp and indemnity lands, saline lands and forfeited lands.¹⁹⁹

The books and accounts of the auditor are examined, from time to time without notice, by the state examiner.²⁰⁰ Before 1909 the board of commissioners, at each regular session, examined the books of the auditor.²⁰¹

The state board of accounts prescribes the forms of books, reports, accounts, and records for the use or disposition of

¹⁸⁹ Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

¹⁹⁰ Rev. Stat. 1843, ch. 7, secs. 79, 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

Interview of June 14, 1939 with E. P. Brennan, state examiner.

¹⁹¹ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

¹⁹² Acts 1899, 1901; Burns 65-318; Baldwin 16075.

¹⁹³ Acts 1899; Burns 26-523; Baldwin 5387.

¹⁹⁴ Acts 1840-41 (general), ch. 2, sec. 10. 1 Rev. Stat. 1852; Burns 49-3010; Baldwin 5423.

Wells v. State *ex rel.* Board of County Comrs. (1864), 22 Ind. 241.

¹⁹⁵ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 15, sec. 34. Acts 1855, ch. 37, sec. 1. Acts 1883, ch. 56, sec. 1. Acts 1891, ch. 99, secs. 114, 116. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1899; Burns 26-509; Baldwin 5373. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

¹⁹⁶ 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

¹⁹⁷ *Ibid.*

¹⁹⁸ Acts 1913; Burns 2-1417, 2-1418; Baldwin 199, 200.

¹⁹⁹ 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

²⁰⁰ Acts 1909; Burns 60-211; Baldwin 13862.

²⁰¹ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. Interview of May 18, 1939 with E. P. Brennan, state examiner.

all county auditors, concerning the accounting for public funds.²⁰²

Forms for the following books were prescribed for the county auditors by the state board of accounts: Fee and cash-book; tax duplicate; ditch tax duplicate; ditch tax duplicate—10 year payment; moratorium tax duplicate; register of warrants on treasurer; register of quietuses and receipts; distribution record; record of commissioners' allowances; ledger of appropriations and disbursements; ledger of receipts and disbursements; record of receipt and sale of intangible tax stamps; register of banks and savings banks; register of building and loan associations; register of school fund loans; register of school fund interest contracts and record of payments; inventory of school fund loans; record of condition of school funds; register of macadam road bonds and interest paid; bond register; transfer record; venue record; monthly balance record; auditor's financial statement; insolvent record; register of receipts and sales of material—county infirmary; construction record—ruled, printed, punched; register of redemption bonds; bidders' record; work sheet—delinquent tax extension; abstract of delinquent tax 1934 carried to 1935 duplicate; poor relief ledger; township poor bond redemption ledger; ledger of poor bond receipts; and auditor's poor claim register.²⁰³

Forms for the following blanks, documents, and reports were prescribed for the county auditors by the state board of accounts: Report of fees collected; claim for burial of soldiers; ordinance of appropriation; estimate of revenues other than taxes; warrants on treasurer; claims against county; dog claims; estimate of county commissioners—general; estimates of county commissioners for orphans' home, tuberculosis hospital, county hospital, and insane hospital; estimates of clerk of the circuit court, auditor, treasurer, recorder, sheriff, surveyor, superintendent of schools, coroner, county assessor, township assessors, prosecuting attorney, highway supervisor, circuit court, and superior court; auditor's card; report of superintendent of infirmary; report of viewers and engineer; county engineer's monthly estimate; surveyor's claim blank; specifications, bid, and contract for county printing and purchase of supplies; requisition; apportionment of current

²⁰² Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

²⁰³ Interview of May 18, 1939 with E. P. Brennan, state examiner.

tax-June settlement; apportionment of current tax-December settlement; apportionment of bank or building and loan tax-June or December settlement; apportionment of delinquent tax-June settlement; apportionment of delinquent tax-December settlement; apportionment of moratorium tax-June or December settlement; distribution sheets-June and December; apportionment of treasurer's fees for collection of delinquent tax-June or December settlement; election to accept extension of school fund loan; contract for installment payments of delinquent interest on school fund loans; agreement for issuance of redemption bond; revised budget estimate of funds-county, township, civil city, civil town, school corporation, and library; estimate of miscellaneous revenue-county general fund, township fund, corporation fund, school corporation, civil town; June settlement sheets; December settlement sheets; abstract of taxables; notice to bidders; certificate of code compliance; school fund mortgage; journal voucher; auditor's report to commissioners; and kennel license.²⁰⁴

The state board of accounts was created in 1909.²⁰⁵ Nearly all of the afore-mentioned forms were prescribed in 1910 and 1911, though some changes have been made since then. Most of the books and records required by the state board of accounts were specifically required by statute; but the board, under its broad statutory powers, has in some instances required books and records, such as the auditor's monthly balance record, not specifically required by statute. The auditor is not required to keep as many separate records now as he did before 1924, since the board consolidated many of his records that year.²⁰⁶

The auditor's office must be kept at the county seat, open for the transaction of business at all times during business hours.²⁰⁷

AUDITS AND REPORTS

256. FIELD EXAMINER'S REPORTS, 1910-. 5 f. b.

Copies of reports of audits of various county offices, showing dates of report and audit, names of examiner and office, and financial conditions of accounts. Arr. chron. by dates of reports. No index. Typed. 10 x 5 x 14. Aud. off.

²⁰⁴ *Ibid.*

²⁰⁵ Acts 1909; Burns 60-202; Baldwin 13855.

²⁰⁶ *Ibid.* Interview of May 18, 1939 with E. P. Brennan, state examiner.

²⁰⁷ 1 Rev. Stat. 1852; Burns 49-3002; Baldwin 5416.

257. [MONTHLY REPORT PROSECUTING ATTORNEY], 1933-. 1 f. b. Prosecuting attorney's monthly reports of fees charged and collected, showing cause number, nature of action, date of appearance, title of cause, and amount of fees. Arr. chron. by dates of reports. No index. Typed. 10 x 5 x 14. Aud. off.

258. TRUSTEE'S SETTLEMENTS, 1866-1913. 2 vols. (1 vol. not labelled, 2).

Transcripts of township trustees' annual reports of receipts and disbursements, showing date of report, names of township and trustee, amounts of receipts and disbursements, and balance. Arr. by twps., thereunder chron. by dates of reports. No index. Hdw. 550 pp. 18 x 12 x 3. Aud. vt.

259. TRUSTEES' REPORTS, 1900-. 4 cartons, 6 f. b.

Duplicates of township trustees' annual reports to advisory board with vouchers attached, showing dates of report and voucher, amounts of receipts and disbursements, names of payer or payee and fund, and balance. Arr. by twps., thereunder chron. by dates of reports. No index. Hdw. Cartons, 10 x 10 x 36; f. b., 10 x 5 x 14. 4 cartons, 1900-1936, attic stor. rm. 3; 6 f. b., 1937-, aud. off.

260. TRUSTEES' REPORT TO COMMISSIONERS, 1895-. 2 cartons, 2 f. b.

Original annual reports of township trustees to county commissioners on receipts and expenditures, showing date of report, balances forwarded, amounts received from treasurer, dates, numbers, amounts and purpose of vouchers, names of payees, total expenditures, and balances on hand. Arr. by names of townships, thereunder chron. by dates of reports. Hdw. Cartons, 10 x 10 x 36; f. b. 10 x 5 x 14. 2 cartons, 1895-1936, basmt. vt.; 2 f. b., 1937-, aud. off.

261. SHEEP RECORD, 1925. 1 vol.

Record of township trustees' claims filed for stock killed or damaged by dogs, showing date of claim, kind of stock killed or damaged, name of owner, value of stock, amount of allowance, and date and number of warrant issued to satisfy claim. Arr. chron. by dates of claims. No index. Hdw. 242 pp. 16 x 8 x 1. Aud. rec. rm. 1.

RECEIPTS AND DISBURSEMENTS

GENERAL FUNDS

262. RECORD OF MONTHLY AND ANNUAL BALANCE, 1875-. 5 vols. (4, 1 vol. not labelled, 1, 1, 2).

Auditor's monthly financial statements of all revenue, showing

date of statement, source of funds, amounts of receipts and disbursements, and total balance in accounts, funds and appropriations. Arr. chron. by dates of statements. No index. Hdw. 167 pp. 22 x 17 x 3. 2 vols., 1875-1911, aud. vt.; 2 vols., 1912-July 1938, aud. rec. rm. 1; 1 vol., Aug. 1938-, aud. off.

263. AUDITOR'S FEE AND CASH BOOKS, 1887-. 12 vols. (1-6, 2-5 and 2 vols. not labelled).

Record of fees collected by auditor, showing date and amount of collection, name of payer, nature of fee, and fund credited. Arr. chron. by dates of collections. No index. Hdw. 320 pp. 18 x 12 x 3. 11 vols., 1887-June 8, 1936, aud. rec. rm. 1; 1 vol., June 9, 1936-, aud. off.

264. RECORD OF APPROPRIATIONS AND DISBURSEMENTS, 1899-. 39 vols. (16 vols. not labelled, 1, 2, 1-13 and 8 vols. not labelled).

Ledger of appropriations and disbursements therefrom, showing date and amount of appropriation, names of fund, office and payee, date, number and amount of warrant, and balance. Arr. by offices, thereunder chron. by dates of disbursements. No index. Hdw. 500 pp. 16 x 18 x 2. 13 vols., 1899-1911, attic stor. rm. 3; 2 vols., 1912-13, attic stor. rm. 4; 22 vols., 1914-35, aud. rec. rm. 1; 2 vols., 1936-, aud. off.

265. RECORD OF RECEIPTS, 1851-. 11 vols.

Record of money received by auditor from county officers, institutions, school funds, roads and miscellaneous sources, showing date of receipt, name of payer and fund, source of revenue, and receipt and quietus numbers. Arr. chron. by dates of receipts. No index. Hdw. 1000 pp. 16 x 24 x 6. 10 vols., 1851-1934, aud. rm. 1; 1 vol., 1935-, aud. off.

266. AUDITOR'S REGISTER OF ALL RECEIPTS OTHER THAN TAX PAYMENT, 1912-24. 1 vol. Discontinued.

Register of receipts for which auditor's quietus has been issued, showing date, number and amount of receipt, and name of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 315 pp. 16 x 12 x 2. Aud. rec. rm. 1.

267. COUNTY DOG FUND LEDGER, 1925-May 21, 1929. 1 vol.

Record of receipts and disbursements of dog tax funds received from township assessors and disbursed to various taxing units, showing names of assessor and taxing units, dates and amounts of receipt and disbursement, and balance in fund. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 250 pp. 12 x 18 x 2. Aud. rec. rm. 1.

268. CERTIFICATE OF DISTRIBUTION, 1931-. 2 vols.

Stubs of certificates of distribution of county revenue, showing date of certificate, warrant number, names of payee and taxing unit or fund, and amount of distribution. Arr. chron. by dates of certificates. No index. Hdw. 500 pp. 9 x 12 x 2. Aud. rec. rm. 1.

269. CHANGE OF VENUE, 1897-. 1 vol.

Record of receipts and disbursements for causes venued to and from other counties, showing cause number, date of venue, names of plaintiff, defendant and county, nature of action, and amounts of receipts and disbursements. Arr. chron. by dates of venue. Indexed alph. by names of plaintiffs and defendants. Hdw. 376 pp. 16 x 10 x 3. Aud. off.

For other change of venue records, see entries 188, 189, 297ii.

270. OLD AGE PENSION WARRANTS, 1933-. 4 vols.

Duplicate copies of warrants issued for old-age assistance, showing date, number and amount of warrant, and name and address of recipient. Arr. num. by warrant nos. Hdw. and typed. 800 pp. 18 x 14 x 6. Aud. vt.

For other old-age assistance records, see entries 98, 99, 358-364, 372.

271. [DUPLICATE WARRANTS], 1925-. 14 vols.

Carbon copies of warrants drawn for disbursement of all revenue, showing date, number, amount and purpose of warrant, name of payee, and appropriation number. Arr. num. by warrant nos. No index. Typed. 2,000 pp. 18 x 12 x 6. 5 vols., 1925-29, aud. rec. rm. 2; 9 vols., 1930-, aud. vt.

For prior records, see entry 272.

272. REGISTER OF ORDERS, 1841-1924. 14 vols.

Register of orders drawn on treasurer for disbursement of all revenue, showing date, number, amount and purpose of order, and name of payee. Arr. num. by order nos. No index. Hdw. 300 pp. 18 x 12 x 3. Aud. rec. rm. 1.

For subsequent records, see entry 271.

273. INDEX OF COUNTY ORDERS, 1844-67, 1880-1911. 11 vols.
(3 vols. not labelled, 1-8). Title varies: Register of Receipts for Delivery of County Orders, 1844-67, 2 vols.

Record of receipts for orders delivered, showing number and date of order, names of payee and account, amount of order, date of delivery, and by what court allowed. Arr. alph. by names of payees, thereunder chron. by dates of orders. No index. Hdw. 400 pp. 16 x 14 x 2½. 2 vols., 1844-67, aud. vt.; 9 vols., 1880-1911, aud. rec. rm. 1.

274. [CANCELLED CHECKS], 1926-. 12 f. b.

Cancelled checks issued in payment of county expenses, showing dates of issue and cancellation, number, amount and purpose of check, and names of payee, fund and depository. Arr. num. by check numbers. No index. Typed. 10 x 5 x 14. Aud. vt.

PUBLIC IMPROVEMENTS (see also entries 28-30, 236-238, 381-385)

275. [DITCH BOND REDEMPTION LEDGER], 1931-. 1 vol.

Record of expenditures for construction and maintenance of ditches including:

- i. Record of redemption of bonds and coupons, showing date, number and amount of warrant, amounts of bond and coupons, total amounts paid into and balance in ditch fund, treasurer's receipt number, and names of payee and ditch.
- ii. Record of warrants issued for expenditures for construction and maintenance of ditches, 1936-, showing date, number and amount of warrant, name of payee, treasurer's receipt number, and total amounts paid into and balance in ditch fund.

Arr. chron. by dates of warrants. No index. Hdw. 500 pp. 12 x 15 x 3. Aud. rec. rm. 1.

276. ROAD LEDGERS, 1908-Sept. 6, 1932. 5 vols. (2 vols. not labelled, 1-3).

Record of expenditures for construction and maintenance of gravel roads, showing date of disbursement, total hours and nature of work, kind and cost of material used, names of road and payee, and total cost. Arr. chron. by dates of disbursements. Indexed alph. by names of payees. Hdw. 250 pp. 14 x 14 x 2. Aud. vt.

277. COMPLETE RECORD OF HIGHWAY IMPROVEMENTS, 1907-Apr. 15, 1926. 17 vols.

Record of expenditures for construction and maintenance of highways, showing dates of petition, bid, contract, bond issue and completion, names of road, petitioner, bidder and contractor, amounts of bid, bond issue and contract, kind of material, number of employees, and total cost. Arr. chron. by dates of petitions. Indexed alph. by names of roads. Typed. 400 pp. 15 x 9 x 3. Aud. rec. rm. 1.

278. ASSESSMENTS MADE FOR CONSTRUCTION OF FREE GRAVEL ROADS, 1871-Nov. 25, 1892. 23 vols. Discontinued.

Record of assessments levied against property owners for construction of gravel roads, showing date and amount of assess-

ment, names of road and property owners, location and description of land benefited, amount of assessment, and total cost of road. Arr. alph. by names of property owners. No index. Hdw. 186 pp. 18 x 12 x 1. Bsmt. vt.

279. ROAD PAPERS, 1930-34. 10 f. d.

Receipts for money paid out for gravel road repairs, showing date and number of receipt, name of payee, amount disbursed, and purpose of disbursement. Arr. chron. by dates of receipts. No index. Hdw. 12 x 16 x 20. Aud. rec. rm. 2.

POOR FUNDS

280. COUNTY AUDITOR'S REGISTER OF POOR FUND CLAIMS, 1933-.
1 vol.

Record of monthly poor relief claims paid by county, showing date, amount and number of trustee's claim, date of filing, name of vendor, classification, amount paid by federal fund, and number and amount of auditor's warrant. Arr. by names of twps., thereunder num. by claim nos. No index. Hdw. 500 pp. 18 x 12 x 3. Aud. off.

TAXES

APPRAISEMENTS

281. REAL ESTATE LIST AND TRANSFER BOOK, 1851-. 218 vols.
Record of ownership and transfers of title to real property, showing names of owner, grantor and grantee, location, description and assessed valuation of property, kind of deed, dates of deed and transfer, and amount of transfer fee. Arr. by taxing units, thereunder alph. by names of owners. No index. Hdw. 350 pp. 18 x 12 x 3. Aud. off.

282. VALUATION RECORD, 1864-Aug. 17, 1886. 5 vols.
Record of assessed valuation placed on all real property subject to taxation and valuation as fixed by board of equalization, showing date of assessment, name of owner, description and location of real estate, value of land and improvements, and amount of assessment. Arr. by twps., thereunder alph. by names of owners. No index. Hdw. 300 pp. 18 x 12 x 2½. 4 vols., 1864-80, attic stor. rm. 5; 1 vol. 1881-86, attic stor. rm. 3.

ASSESSMENT LISTS

283. ASSESSOR'S BOOK, 1855-. 1,000 vols.
Record of all taxable property, showing names of taxing unit and property owner, location, description and assessed valua-

tion of property, and number of polls. Arr. by twps., thereunder alph. by names of property owners. No index. Hdw. 150 pp. 16 x 12 x 1½. 4 vols., 1855-68, attic stor. rm. 5; 384 vols., 1869-1922, attic stor. rm. 6; 447 vols., 1912-35, bsmt. vt.; 5 vols., 1936-, twp. assr. off.; 160 vols., 1934-, aud. rec. rm. 1.

284. PERSONAL ASSESSMENT LIST, 1890-. 2,861 vols. (dated).

Schedules of personal property assessments, showing date of assessment, name and address of owner, itemized list of personal property, number of polls, and assessed valuation. Arr. by taxing units, thereunder alph. by names of owners. No index. Hdw. 765 pp. 9 x 12 x 2½. 408 vols., 1890-1926, attic stor. rm. 8; 8 vols., 1892-1909, attic stor. rm. 5; 319 vols., 1901-20, attic stor. rm. 7; 965 vols., 1910-28, attic stor. rm. 3; 639 vols., 1912-33, bsmt. vt.; 180 vols., 1934-, assr. off.; 342 vols., 1934-, twp. assr. off.

285. REAL ESTATE ASSESSMENT LIST, 1895-1932. 337 vols. Schedules of assessments of real property, showing date of assessment, names of taxing unit and property owner, and location, description and assessed valuation of property. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 450 pp. 9 x 12 x 1½. 3 vols., 1895-1903, attic stor. rm. 5; 155 vols., 1895-1925, attic stor. rm. 3; 18 vols., 1895-1925, attic stor. rm. 8; 48 vols., 1903-19, attic stor. rm. 7; 113 vols., 1912-32, bsmt. vt.

286. ASSESSMENT LIST, CORPORATIONS, 1912-. 32 vols. Schedules of assessments made on personal property of corporations, showing dates of assessments and oath, name, description and location of company, amount of capital stock, number of shares, market value, total indebtedness, value of tangible property and franchise, and surplus or reserve fund. Arr. alph. by names of corporations. No index. Hdw. 165 pp. 12 x 9 x 1½. 10 vols., 1912-33, bsmt. vt.; 16 vols., 1919-25, attic stor. rm. 7; 6 vols., 1934-, twp. assr. off.

287. SCHEDULE OF PERSONAL PROPERTY, COMMERCIAL, 1912-. 69 vols.

Schedules of assessments made on personal property of firms, showing date of assessment, name, description and location of firm, itemized list of taxables, and total assessed value. Arr. alph. by names of firms. No index. Hdw. 665 pp. 9 x 12 x 1½. 25 vols., 1912-25, attic stor. rm. 3; 26 vols., 1912-33, bsmt. vt.; 18 vols., 1934-, twp. assr. off.

288. TAX DUPLICATE AND DELINQUENT RECORD, 1877-1911. 180 vols. (dated). Discontinued.

Record compiled annually of all taxes payable and returned delinquent, showing date of duplicate, names of taxpayer and taxing unit, duplicate number, location and description of property, assessed valuation, amounts of real, personal and poll taxes, delinquency, penalty and interest, and amount of payment. This is a combination of two records formerly kept separately: Tax Duplicate, entry 289; Delinquent List, entry 292. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 600 pp. 18 x 20 x 4. 19 vols., 1877-79, 1887-89, attic stor. rm. 3; 161 vols., 1880-86, 1890-1911, attic stor. rm. 4.

- . 289. TAX DUPLICATE, 1846-49, 1853, 1856-57, 1860-66, 1868-76. 27 vols. (dated). 1877-1911 in Tax Duplicate and Delinquent Record, entry 288.

Record compiled annually of all taxes payable, showing same information as in entry 281. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 600 pp. 18 x 24 x 4. 24 vols., 1846, 1849, 1856-57, 1860-66, 1868-76, attic stor. rm. 3; 3 vols. 1847-48, 1853, attic stor. rm. 5.

EXEMPTIONS

290. AFFIDAVIT OF MORTGAGE INDEBTEDNESS, 1892-. 378 vols. Affidavits filed for tax exemption on mortgaged indebtedness, showing dates of affidavits and filing, names of mortgagor and mortgagee, location and description of property, assessed valuation, amount of mortgage indebtedness, and volume and page reference to Mortgage Record, entry 89. Arr. by taxing units, thereunder alph. by names of mortgagors. No index. Hdw. 300 pp. 15 x 19 x 2. 6 vols., 1892-1906, attic stor. rm. 3; 15 vols., 1902-17, attic stor. rm. 7; 18 vols., 1907-15, attic stor. rm. 3; 164 vols., 1912-33, bsmt. vt.; 175 vols., 1934-, aud. rec. rm. 1.

291. AFFIDAVIT OF SOLDIER'S EXEMPTION, 1928-. 4 vols. Record of affidavits filed by soldiers or their widows to secure assessment exemptions, showing date and number of affidavit, name, age and address of affiant, pension certificate and compensation numbers, description and location of property, and amount of deduction. Arr. by names of taxing units, thereunder alph. by names of affiants. No index. Hdw. 100 pp. 8 x 10 x 1. Aud. off.

DELINQUENCIES

292. DELINQUENT LIST, 1845-59, 1863-69, 1873-76. 9 vols. (dated). 1877-1911 in Tax Duplicate and Delinquent Record, entry 238.

Record of taxes returned delinquent, showing date of delinquency, duplicate number, names of taxpayer and taxing unit, location and description of property, and amounts of real, personal and poll taxes delinquent. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 300 pp. 18 x 12 x 3. Attic stor. rm. 3.

293. DELINQUENT LANDS AND LOTS RECORD, 1885-. 3 vols. (1, 2 and 1 vol. not labelled).

Record of real property returned delinquent for nonpayment of taxes, showing dates of delinquency and redemption, names of owner and redeemer, amounts of delinquent tax, interest and penalty, and location and description of property. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 350 pp. 18 x 12 x 3. 2 vols., 1885-1904, aud. rec. rm. 1; 1 vol., 1905-, aud. off.

294. [MORATORIUM WORK SHEET], 1933-. 1 f. d.

Original work sheets of delinquent taxes on which payment has been deferred, showing date of moratorium, name of taxpayer, tax duplicate number, amounts of delinquency, penalty and interest, date payable, total amount paid, location and description of property, and volume and page reference to Tax Duplicate and Delinquent List, entry 230. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 6 x 18 x 20. Aud. off.

295. TAX SALE REGISTER, 1856-. 4 vols. (1 vol. not labelled, 1-3).

Record of sales of property for nonpayment of taxes, showing dates of sale and redemption, names of owner, purchaser and redeemer, description and location of property, and amounts of delinquency, sale and redemption. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 200 pp. 18 x 12 x 2. Aud. rec. rm. 1.

For tax deed record, see entry 82.

296. CERTIFICATE OF ASSIGNMENT, 1854-. 2 vols. (1, 2).

Record of assignments of tax sale certificates, showing date of assignment, number of certificate, names of assignor and assignee, description and location of property, amounts of delinquency, taxes and sale, and certificate of nonencumbrance. Arr. chron. by dates of assignments. No index. Hdw. 400 pp. 15 x 12 x 2. Aud. off.

297. [AUDITOR'S MISCELLANEOUS PAPERS], 1907-. 76 f. b. 1837-1906 in [Commissioners' Miscellaneous Papers], entry 4.

Original papers filed with auditor, including:

- i. Duplicate copies of tax sale certificates issued to purchasers of property sold for delinquent taxes, showing date of filing, dates and amounts of sale and redemption, names of delinquent owner and purchaser, and location and description of property.
- ii. Statements of costs on causes venued from Delaware County, showing dates of instrument and filing, names of foreign county, plaintiff, defendant and witnesses, number and title of cause, total cost, and amount allowed.
- iii. Redeemed county line road orders, 1911-18, showing dates of issue, filing and redemption, name of payee, and purpose and amount of order.

Arr. chron. by dates of filing. No index. Hdw. and typed. 10 x 5 x 12. Aud. vt.

PLATS

298. AUDITOR'S PLAT BOOK, 1839-. 5 vols. (1-5).

Plats of civil townships, showing sections, quarter sections, grants, divisions, subdivisions, lots and parts of lots, names of owners, and assessed valuation of real estate and improvements. Arr. by civil townships. No index. Hdw. 75 pp. 18 x 42 x 1. Aud. rec. rm. 1.

SCHOOL FUNDS

(See also entries 90, 299, 250-252)

299. CONDITION AND DISTRIBUTION SCHOOL FUND, AUDITOR, 1912-. 1 vol.

Recapitulation of conditions and distribution of school funds, showing date of recapitulation, balance on hand at last statement, amounts held in trust, loans in force, cash in treasury, loans and losses paid, total debits and credits, and balance on hand. Arr. chron. by dates of recapitulations. No index. Hdw. 80 pp. 16 x 17 x 2. Aud. rec. rm. 1.

300. INVENTORY OF TRUST OR SCHOOL FUNDS, 1912-. 1 vol. Inventory of conditions of common, Congressional and endowment school fund loans, showing dates of loans and interest payments, number and amount of loan, balance unpaid, interest due, and volume and page reference to Register of School Fund

Loans, entry 301. Arr. chron. by dates of loans. No index. Hdw. 120 pp. 16 x 17 x 1. Aud. rec. rm. 1.

301. REGISTER OF SCHOOL FUND LOANS, 1839-. 4 vols. (1, and 3 vols. not labelled). Title varies: Register of Loans, 1839-72, 1 vol. 1858-81, Record of School Funds, 1 vol.

Record of school fund loans, showing date, number and amount of mortgage, name of mortgagor, location and description of property, amount of interest payments, and dates of payment of interest and principal. Arr. chron. by dates of mortgages. No index. Hdw. 240 pp. 16 x 12 x 2. 1 vol., 1839-72, aud. vt.; 1 vol. 1858-81, attic stor. rm. 5; 2 vols., 1882-, aud. vt.

302. REGISTER OF LOANS OF THE DIFFERENT TRUST FUNDS OF DELAWARE COUNTY, 1840-Apr. 18, 1872. 1 vol.

Record of common, Congressional and endowment fund loans, showing dates of loan and maturity, names of borrower and fund, location and description of property, amount of loan, and rate of interest. Arr. chron. by dates of loans. No index. Hdw. 200 pp. 18 x 12 x 2. Aud. vt.

303. RECORD OF RECEIPTS AND DISBURSEMENTS CONGRESSIONAL T[ownship] P FUND, 1913-Feb. 21, 1918. 1 vol.

Record of receipts and disbursements of Congressional township school funds, showing dates of receipt and disbursement, receipt and warrant numbers, name of township, and total amounts received and disbursed. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 82 pp. 16 x 21 x 1. Aud. rec. rm. 1.

304. REGISTER OF RECEIPTS OF SCHOOL FUND LOANS, 1832-78. 3 vols. Title varies: Register of Installments, 1832-71, 1 vol.

Record of receipts of principal and interest on school fund loans, showing date of receipt, name of payer, number of loan, amount of principal and interest, and name of fund. Arr. num. by loan nos. No index. 200 pp. 15 x 10 x 1½. Aud. vt.

305. LEDGER SCHOOL FUNDS, AUDITOR, 1853-70. 1 vol. Recapitulation of receipts and disbursements of school fund revenue, showing dates and amounts of receipts and disbursements and balance. Arr. by twps., thereunder chron. by dates of receipts and disbursements. Hdw. 600 pp. 18 x 12 x 2. Attic stor. rm. 5.

306. JOURNAL, AUDITOR, 1853-66. 3 vols.

Register of orders drawn on treasurer for disbursement of school fund revenue, showing date, number and amount of order, and names of payee and fund. Arr. chron. by dates of orders. No index. Hdw. 400 pp. 18 x 14 x 2. Attic stor. rm. 5.

307. APPORTIONMENT OF SCHOOL REVENUE, 1868-May 1875.

1 vol.

Record of school fund revenue apportionments, showing date and amount of apportionment, names of township or school corporation, number of children in each township or school corporation, amounts received from tax, common school fund interest, liquor licenses and unclaimed fees, and total amount of apportionment. Arr. chron. by dates of apportionments. No index. Hdw. 250 pp. 15 x 10½ x 1. Aud. rec. rm. 1.

308. REGISTER OF SALES OF SCHOOL SECTION #16, 1830-38.

1 vol.

Record of sales of 16th section lands granted by Federal Government, showing date of sale, name of purchaser, location and description of land, number of acres, price per acre, and amount of sale. Arr. chron. by dates of sales. No index. 100 pp. 8 x 12 x ½. Aud. vt.

309. SCHOOL FUND ORDERS, 1868-May 1872. 1 vol.

Stubs of orders drawn on treasurer for distribution of Congressional and common school fund revenue, showing date, number and amount of order, and name of payee. Arr. chron. by dates of orders. No index. Hdw. 250 pp. 16 x 14 x 1. Aud. rec. rm. 1.

OFFICIAL BONDS

(See also entries 33-39)

310. MISCELLANEOUS BOND RECORD, 1868-1932. 15 vols. (13 vols. not labelled, 2, 3). Title varies: Trustees', Assessor's and Miscellaneous Bonds, 1868-80, 1 vol.; Assessor's Bond Record, 1902-12, 11 vols.

Record of assessors', trustees' and miscellaneous bonds, showing dates of bond, oath, approval and expiration, names of official and sureties, and nature and amount of bond. Arr. chron. by dates of bonds. Indexed alph. by names of officials. 1868-1910, hdw.; 1911-32, typed. 400 pp. 18 x 12 x 2½. 1 vol., 1868-80, attic stor. rm. 5; 14 vols., 1879-1932, aud. rec. rm. 1.

MISCELLANEOUS

311. ENUMERATION, 1925, 1931, 1937. 52 vols.

Sexennial enumeration of white and colored males over twenty-one years of age, showing date of registration, and name, age, color, address, and occupation of male. Arr. by twps., there-

under alph. by names of males. No index. Hdw. 50 pp. 12 x 10 x 1. 36 vols., 1925, 1931, pub. welf. off., 16 vols., 1937, aud. rec. rm. 1.

312. TRACT BOOK, 1827-Oct. 5, 1839. .1 vol.

List of original purchasers of Federal lands, showing date of purchase, receipt number, location, description and total acreage of land, price per acre, and total amount of purchase. Arr. num. by twp., range and section nos. No index. Hdw. 175 pp. 12 x 9 x 1½. Aud. vt.

MAPS

313. DELAWARE COUNTY, INDIANA, 1936. 1 map.

Communication map of Delaware County, shewing roads and highways. Drawn by Lester Janney. Published at Muncie by George Dillon. Ptd. Scale: 1" to 1 mi. 20 x 28. Aud. off.

314. DELAWARE COUNTY, INDIANA, 1932. 1 map.

Communication map of Delaware County, showing townships, roads, farms and business places. Drawn by Cyrus R. Clevenger. Published at Bloomington. Blueprint. No scale given. 40 x 30. Aud. off.

315. DELAWARE COUNTY, INDIANA, 1921. 1 map.

Physical map of Delaware County, showing elevation of land by contour lines, shadings, hachures or layer tints. Published at Indianapolis by Ford Map Co. Ptd. Scale: 2" to 1 mi. 36 x 40. Aud. off.

316. CITY OF MUNCIE, 1928. 1 map.

Communication and political map of city of Muncie, shewing lots, streets and railways, and traction, section and corporation lines. Drawn by Paul R. White. Published at Muncie. Black and white. Scale: 4" to 1 mi. 70 x 70. Aud. off.

317. CITY OF MUNCIE, 1903. 1 map.

Physical and communication map of Muncie, showing lots, streets, railroads, corporation lines and additions. Drawn by B. F. Deardorff. Published at Muncie. Blueprint. No scale given. 45 x 45. Aud. off.

XVII. REGISTRATION OFFICER

The clerk of the circuit court serves ex officio as the registration officer of Delaware County, by authority of an act of 1933, as amended in 1935.¹

¹ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

The clerk of each city or town in the county is *ex officio* deputy registration officer of the county. The registration officer may appoint as many deputy registration officers for the county as may be necessary. The deputies must take an oath administered by the clerk of the circuit court. They receive a certificate of appointment which they must keep with them when about their official duties. These deputies are selected, as nearly as practicable, in equal numbers, from the two major political parties, on written recommendation of the county chairman of each party.²

For each registration blank or transfer of registration which the clerk of the circuit court fills out and executes, he receives a sum of not to exceed four cents, and in addition thereto he receives reasonable compensation (fixed by the board of commissioners) for the additional services he renders as registration officer.³ The deputy registration officers receive for their services the sum of not to exceed five cents for each registration blank properly filled out and executed.⁴

The Constitution of 1851 prescribes the qualifications of voters.⁵ Amendments of the constitution in 1881 and 1926 directed the general assembly to provide for the registration of all persons entitled to vote.⁶

Various laws for registration have been enacted. An act of 1867, establishing a township board of registry, consisting of the township trustee and two freeholders appointed by the board of commissioners,⁷ was repealed in 1869.⁸ Acts of 1889⁹ and 1891,¹⁰ providing for registration in the office of the clerk of the circuit court, were declared unconstitutional in 1890¹¹ and 1892,¹² respectively. An act of 1911, providing for a precinct registration board, consisting of a registration inspector (appointed by the board of commissioners) and two registration clerks (appointed by the regis-

² *Ibid.*

³ Acts 1933, 1935; Burns, 1939 suppl., 29-329; Baldwin, 1935 suppl., 7327.

⁴ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

⁵ Const., art. 2, sec. 2 (as amended 1881).

⁶ *Ibid.*, sec. 14 (as amended in 1926).

⁷ Acts 1867, ch. 51, sec. 2.

⁸ Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

⁹ Acts 1889, ch. 87, sec. 13.

¹⁰ Acts 1891, ch. 144, sec. 1.

¹¹ *Morris v. Powell* (1890), 125 Ind. 281, 25 N. E. 221.

¹² *Brewer v. McClelland* (1892), 144 Ind. 423, 32 N. E. 299.

tration inspector),¹³ was repealed in 1917.¹⁴ An act of 1917, creating a board of registration commissioners (generally called the "registration board"), consisting of the clerk of the circuit court and two qualified electors appointed by him (one from each of the major political parties),¹⁵ was repealed in 1919.¹⁶ An act of 1919, creating precinct boards,¹⁷ was amended by an act of 1925, creating a registration board consisting of the auditor and a person of opposite political faith appointed by him;¹⁸ and both acts were repealed in 1927.¹⁹ From 1927 until 1933 there was no registration system. Acts of 1933 and 1935 established the present system of registration.²⁰

Registration of all voters is a requirement for voting at any general election, primary election, city election, or any special election in which all qualified voters of the state may participate. Such registration must be made at least 29 days before the election.²¹ The registration officer has full charge and control of the registration of the voters and provides all the necessary books and supplies.²²

The official registration books consist of the original affidavits of registration, fastened in binders,²³ and constitute a permanent registration record.²⁴ If the registration books of any precinct are destroyed, mutilated, or inaccessible, a new registration is conducted on determination by the board of commissioners of the county.²⁵ The clerk, not later than 10 days before the election, prepares typewritten or photostatic copies of the registration list of each precinct in the county. These are for the election officials and party

¹³ Acts 1911, ch. 150, secs. 3-15.

¹⁴ Acts 1917, ch. 139, sec. 47.

¹⁵ *Ibid.*, sec. 4.

¹⁶ Acts 1919, ch. 150, sec. 1.

¹⁷ *Ibid.*, ch. 186, sec. 4.

¹⁸ Acts 1925, ch. 138, sec. 1.

¹⁹ Acts 1927, ch. 195, sec. 1.

²⁰ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

²¹ Acts 1933; Burns 29-301, 29-307; Baldwin 7299, 7305. Acts 1933, 1935; Burns, 1939 suppl.,

29-336; Baldwin, 1935 suppl., 7334.

²² Acts 1933; Burns 29-309; Baldwin 7307.

²³ Acts 1933, 1935; Burns, 1939 suppl., 29-313; Baldwin, 1935 suppl., 7311. Acts 1933; Burns

29-316; Baldwin 7314.

²⁴ Acts 1933; Burns 29-302; Baldwin 7300.

²⁵ Acts 1933; Burns 29-304; Baldwin 7302.

heads and may be publicly inspected at the office of the clerk.²⁶

A voter need not register a second time, as long as he continues to reside in the same precinct, unless he fails to vote during any two-year period. If he moves from his precinct or fails to vote during any two-year period, he must apply for a transfer or reinstatement of registration.²⁷ It is the duty of the registration officer to check the registration lists continually for deceased and disfranchised voters. Lists of deceased voters are obtained from local health officers,²⁸ and the clerk prepares a list of all voters disfranchised.²⁹ When a voter moves from one county to another, he is required to register in the new county, and the clerk cancels the voter's former registration.³⁰ The clerk notifies a voter whenever the voter's registration has been challenged, and the clerk cancels the registration if he does not receive a sworn statement from the voter certifying that he is qualified to vote as stated.³¹

The expense of the preparation of registration is paid out of the general fund of the county treasury, as directed by the board of county commissioners, after appropriation by the county council. The expense of preparing lists of registered voters for use in a city election is paid by the city after appropriation by the city council.³²

All forms, blanks, records, and other supplies used in the registration of voters are prescribed by the state board of election commissioners for the purpose of uniformity in the registration records of the state.³³

§18. [MASTER FILE REGISTRATION], 1934-. 143 vols.

Master file of affidavits of registration of voters, showing date of affidavit, name, address, age, sex, marital status and birthplace of voter, whether native or naturalized citizen, period of residence in state, county and precinct, and oath of voter. Arr. alph. by names of voters. No index. Typed and hdw. 100 pp. 18 x 12 x 1½. Registration off.

²⁶ Acts 1333, 1935; Burns, 1939 suppl., 29-317; Baldwin, 1935 suppl., 7315.

²⁷ Acts 1933; Burns 29-303, 29-320, 29-326; Baldwin 7301, 7318, 7324.

²⁸ Acts 1933; Burns 29-321; Baldwin 7319.

²⁹ Acts 1933; Burns 29-322; Baldwin 7320.

³⁰ Acts 1933, 1935; Burns, 1939 suppl., 29-314; Baldwin, 1935 suppl., 7312. Acts 1933; Burns 29-326; Baldwin 7324.

³¹ Acts 1933; Burns 29-325; Baldwin 7323.

³² Acts 1933; Burns 29-305; Baldwin 7303.

³³ Acts 1933; Burns 29-334; Baldwin 7332.

319. [PRECINCT BINDER REGISTRATION], 1934-. 154 vols. Precinct copies of registration affidavits of voters, showing same information as in entry 318. Arr. num. by precinct nos.; thereunder alph. by names of voters. No index. Typed and hdw. 100 pp. 18 x 12 x 1½. Registration off.

320. CARDS ANSWERED, 1939. 2 f. b.

Notices to voters of suspension of registration and voters' applications to clerk for reinstatement, showing dates of notice and application, name, address and signature of voter, and certificate of residence. Arr. alph. by names of voters. No index. Hdw. 1 f. b., 6 x 10 x 16; 1 f. b., 5 x 6 x 14. Registration off.

321. [LIST OF DECEASED VOTERS], 1937-. In [Clerk's Miscellaneous Papers], entry 44.

Report of deceased voters made to clerk from county health officer, showing dates of death and filing and name and address of deceased.

322. REGISTER OF INTENTION TO BECOME QUALIFIED VOTER, 1892. 1 vol.

Register of notices of intention to become qualified voters, showing date of registration, name, age and address of elector, and ward and precinct numbers. Arr. num. by precinct nos., thereunder alph. by names of electors. No index. Hdw. 260 pp. 16 x 10 x 2. Attic stor. rm. 5.

323. [MUNCIE PRECINCTS], 1 map.

Political map of Muncie, showing ward and precinct numbers and boundary lines. Drawn by Alfred Ellison. Blueprint. No scale given. 18 x 16. Registration off.

XVIII. BOARD OF PRIMARY ELECTION COMMISSIONERS

The board of primary election commissioners of Delaware County was established by acts of 1907¹ and 1915, and subsequent amendatory acts. The members are the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by the respective chairmen of the county committees of the parties). The primary election commissioners serve as election commissioners at the election for which nominations by the primary election are made. Said board may employ all necessary clerical

¹ Acts 1907, ch. 282, secs. 1, 13.

assistants.² Each member must be an elector of the county, must have been an inhabitant thereof during one year next preceding his appointment, and must reside within the county while holding office.³ Each member must take an oath that he will support the state and federal constitutions and will faithfully discharge his duties as a member of the board of primary election commissioners.⁴

Each of these commissioners is allowed \$200 for his services at any primary election.⁵

For sufficient legal grounds any member of the board of primary election commissioners may be removed by the circuit court or the superior court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.⁶ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁷ The clerk of the circuit court fills vacancies as to the members appointed by him.⁸

Prior to 1907 nominations had been strictly a party affair. At first candidates were proposed by a mass meeting, or by an informed caucus which might be a meeting of all the voters of the party in the precinct (township) or of party members interested sufficiently to attend (county and state). Out of the latter developed the party convention—an assembly of official delegates chosen by party officials such as precinct committeemen or county or district chairmen, as the case might be.⁹

Indiana was one of the first states to adopt the primary election as a means of choosing candidates. The law of 1889, which instituted the Australian ballot system, recognized the right of each party to hold a primary, which was under the

² Acts 1915, 1917; Burns 29-504; Baldwin 7190.

³ Const., art. 6, secs. 4, 6.

⁴ Const., art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁵ Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1937 suppl., 7109-1.

⁶ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁷ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁸ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

See the essay entitled "Clerk of the Circuit Court", for vacancy in the office of clerk.

⁹ Alma Sickler Bender, *Why Go Back? . . . from the Direct Primary to the Convention System* . . . , 21.

control of the chairman who certified the names of the nominees to the county board of election commissioners.¹⁰

An act of 1901, applicable to all political parties casting 10 percent of the total vote at the preceding general election, provided for the organization of political parties and the holding of two primary elections—one for precinct committeemen, and one for direct nomination of candidates or for election of delegates to a nominating convention. The precinct committeemen elected at the first primary election determined whether the party candidates should be nominated at a primary election or by a delegate convention. The law provided that if it was decided to have a primary election, the party chairman should fix the date thereof and deliver to the county board of election commissioners the names of the candidates proposed by petition. This board was required to prepare the primary ballot. Returns were made to the party board of primary election commissioners. This board declared the nominees of the party, and the chairman of the board certified their names to the county board of election commissioners.¹¹

The act of 1907 prescribed a compulsory direct primary election, under the supervision of a county board of primary election commissioners, for the nomination of party candidates for all county and township offices. This board consisted of the same membership as at present and its members acted as election commissioners at the general election. This primary election included all political parties casting 10 percent of the total vote at the preceding general election, and was conducted by bipartisan precinct election boards paid from county funds.¹²

The present primary election law provides for the nomination of candidates and the election of precinct committeemen and convention delegates, all in one primary election held at the same time and place. This law is mandatory as to each political party casting for its candidate for secretary of state 10 percent of the aggregate vote cast for all candidates for secretary of state at the last preceding general election held for that office.¹³

¹⁰ Acts 1889, ch. 87, secs. 17, 18, 26.

¹¹ Acts 1901, ch. 219, secs. 1-4, 6-11, 26.

¹² Acts 1907, ch. 282, secs. 1, 2, 6, 10-15, 22, 57.

¹³ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1925, 1929; Burns 29-512; Baldwin

The board of primary election commissioners of Delaware County supervises primary elections. It prints and distributes the ballots¹⁴ (the names of candidates being arranged thereon in alphabetical order),¹⁵ and appoints the precinct board of election (consisting of one inspector and two election judges), two poll clerks, and two election sheriffs. These election officials are nominated by the county chairman of each of the two major political parties.¹⁶

At all primary elections, the Australian ballot is used, made up of the tickets of the several political parties qualified for participation in the election, each party having a separate ticket printed on different colored paper, but uniform in size.¹⁷ Between 30 and 60 days before any primary election, a declaration of candidacy must be filed with or certified to the clerk of the circuit court, who is a member of the board.¹⁸ All expenses of the primary are paid from public funds.¹⁹ Candidates of the major political parties for all offices— including city, since 1933— except those to be voted on by all the electors of the state, are nominated at the primary.²⁰ The statutory provisions governing the manner of conducting general elections apply to all primary elections.²¹

Papers of primary election matters are filed in the office of the clerk of the circuit court (a member of the board of primary election commissioners). They are preserved for six months and are then destroyed, unless litigation requires preservation for a longer time.²²

324. [ELECTION RECORD PRIMARY], 1916—. In Election Record [General], entry 330.

Sample ballots and record of number of ballots printed, distributed and returned in primary elections, showing same information as in entry 330.

¹⁴ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

¹⁵ Acts 1915, 1937; Burns, 1939 suppl., 29-515; Baldwin, 1937 suppl., 7201.

¹⁶ Acts 1915; Burns 29-505; Baldwin 7191. Acts 1915, 1917; Burns 29-507; Baldwin 7193. Acts 1929, 1933; Burns 29-804 to 29-807; Baldwin 7093 to 7096.

¹⁷ Acts 1915, 1917; Burns 29-504, 29-514; Baldwin 7190, 7200.

¹⁸ Acts 1915, 1917, 1933, 1935; Burns, 1939 suppl., 29-513; Baldwin, 1935 suppl., 7199. Acts 1915, 1931, 1935; Burns, 1939 suppl., 29-516; Baldwin, 1935 suppl., 7202.

¹⁹ Acts 1915; Burns 29-534; Baldwin 7220. Acts 1933; Burns 29-1805; Baldwin 11637.

²⁰ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1933; Burns 29-1807; Baldwin 11639.

²¹ Acts 1915; Burns 29-556, 29-559; Baldwin 7242, 7244.

²² Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911; Burns 29-2510; Baldwin 7447.

325. [RECORD OF ABSENT VOTERS, PRIMARY ELECTION], 1918, 1924-26, 1932-. In Record of Absent Voters, entry 331.

Record of absent voters ballots in primary elections, showing same information as in entry 331.

326. [DECLARATION OF CANDIDATES], 1936-. In [Clerk's Miscellaneous Papers], entry 44.

Declarations and petitions for candidacy, showing dates of declaration, petition, and filing, names and addresses of candidate and petitioners, ward and precinct numbers, office desired, and name of political party.

327. [CANDIDATES' EXPENSES, PRIMARY ELECTION], 1916-. In [Clerk's Miscellaneous Papers], entry 44.

Affidavits of money expended during candidates' campaigns for nomination, showing same information as in entry 332.

XIX. COUNTY BOARD OF CANVASSERS

The board of canvassers of Delaware County, consisting of the election commissioners, was established by an act of 1905.¹ The board elects its own chairman, and the clerk of the circuit court acts as its clerk.²

Prior to 1843, the canvass of votes was made by the clerk of the circuit court in the presence of all the election judges who attended from the several townships.³ The board of canvassers, established in 1843, consisted of the inspectors from the several townships, who selected one of its members as chairman. The clerk of the circuit court served as clerk. This board was continued until 1905.⁴

The canvass of votes in primary⁵ and special⁶ elections,

¹ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

See the essay entitled "County Board of Election Commissioners."

² Acts 1905; Burns 29-1402; Baldwin 7378.

³ Acts 1817-18 (general), ch. 15, sec. 12. Rev. Laws 1831, ch. 32, sec. 12.

⁴ Rev. Stat. 1843, ch. 5, secs. 45-47. 1 Rev. Stat. 1852, ch. 31, secs. 31-33. Acts 1881 (Spec. Sess.), ch. 47, sec. 38.

⁵ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1915; Burns 29-560; Baldwin 7245. Acts 1933; Burns 29-1807; Baldwin 11639.

⁶ Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin 7249.

including votes cast for city⁷ and township officers,⁸ is made in the same manner as in the general election.

The board has full power to send for persons and papers and compel witnesses to answer proper questions under oath. The sheriff serves all process in county elections and obeys all orders of the board. The city marshal or chief of police performs like duties in city elections.⁹

The members of the board are required to assemble at six p. m. on the day of each election, in the courtroom of the circuit court, to canvass and estimate the certificates, poll lists, and tally papers returned by the election inspectors;¹⁰ to aggregate and tabulate therefrom the votes of the county; and to declare in a certified statement to the candidates elected in the county.¹¹

The ballots cast in all primary and general elections, together with all uncast ballots, are sealed in an envelope or bag by the inspector in the presence of the election judges and poll clerks, and are delivered by him to the clerk of the circuit court, who holds them subject to the demand of the judge of any circuit or superior court of the state, in connection with any litigation arising from the primary or general election in which they were cast. Recount of ballots may be ordered by the court on petition presented by a defeated candidate. The clerk destroys the ballots after the expiration of six months, unless litigation has arisen.¹²

The certificates, together with a statement of all votes tabulated, canvass sheets, poll books, and tally papers, are delivered to the clerk of the circuit court and filed and preserved by him in his office, open to the inspection of any legal voter. These are destroyed after six months' preservation if no litigation arises in that time.¹³

328. [RECAP AND CANVASSERS' SHEETS], 1932-. 1 vol. 1916-31 in [Clerk's Miscellaneous Papers], entry 44. Record of votes cast for candidates, showing date of election,

⁷ Acts 1889, 1891; Burns 29-1612; Baldwin 7170, Acts 1933; Burns 29-1803; Baldwin 11635.

⁸ Acts 1933; Burns 29-1903; Baldwin 7252.

⁹ Acts 1905; Burns 29-1408; Baldwin 7384.

¹⁰ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

¹¹ Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

¹² Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1831 (Spec. Sess.); Burns 29-2101 to 29-2105;

Baldwin 7388 to 7392. Hadley v. Gutridge (1877), 58 Ind. 302.

¹³ Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1905; Burns 29-1404; Baldwin 7380.

names of candidates, votes cast for each candidate by ward and precinct numbers, and total votes cast in county. Arr. num. by precinct nos. No index. Hdw. 50 pp. 14 x 20 x 1. Clk. rec. rm. 2.

XX. COUNTY BOARD OF ELECTION COMMISSIONERS

The board of election commissioners of Delaware County is established by an act of 1889. The board consists of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by the respective chairmen of the county committees of the parties).¹ Each member must be an elector of the county, must have been an inhabitant thereof during one year next preceding his appointment, and must reside within the county while holding office.² Each member must take an oath that he will support the state and federal constitutions and will faithfully discharge his duties as a member of the county board of election commissioners.³

Each of these commissioners is allowed \$200 for his services at any general or special election.⁴

For sufficient legal grounds any member of the county board of election commissioners may be removed by the circuit court or the superior court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ The clerk of the circuit court fills vacancies as to members appointed by him.⁷

Prior to 1889 there was little centralized county control over elections. The first election unit was the township,

¹ Acts 1889; Burns 29-1002; Baldwin 7109.

² Const., art. 6, secs. 4, 6.

³ Const., art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁴ Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

⁵ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929, 1931; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

See the essay entitled "Clerk of the Circuit Court" for vacancy in the office of clerk.

which was divided into precincts as the population increased. Such supervision as was necessary beyond the local unit was performed by various county officers.

With the organization of Delaware County in 1827,⁸ the board of county commissioners laid off the townships,⁹ appointed an inspector of elections in each,¹⁰ and the sheriff delivered to the inspectors blank forms of pollbooks and election returns 10 days before the election.¹¹ After 1831 the inspectors were elected by the voters of the township;¹² and after 1852 the clerk of the circuit court delivered to the sheriff a certificate showing which officers were to be elected. The sheriff posted a copy of this certificate at the usual places of holding elections, published it in some newspaper of the county, and delivered a copy to each township clerk¹³ or trustee.¹⁴ The board of county commissioners designated the precincts,¹⁵ and furnished supplies (including ballot boxes but not ballots).¹⁶ After 1831 the auditor furnished printed forms (but not ballots)¹⁷ and the commissioners furnished the ballot boxes.¹⁸ Each voter furnished his own ballot, which might be written or printed.¹⁹ The president of the board of township trustees from 1853 to 1859²⁰—the township trustee since 1859—served ex officio as inspector of elections²¹ in the precinct in which he resided,²² and the board of county commissioners appointed inspectors in all additional precincts.²³ The precinct election board was composed of the inspector, election judges, and poll clerks. The

⁸ Acts 1826-27, ch. 10.

⁹ Acts 1817-18 (general), ch. 17, sec. 2.

¹⁰ Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, sec. 3.

¹¹ Acts 1817-18 (general), ch. 15, sec. 1.

¹² Rev. Laws 1831, ch. 20, sec. 20.

¹³ 1 Rev. Stat. 1852, ch. 31, sec. 2.

¹⁴ Acts 1831 (Spec. Sess.); Burns 29-702; Baldwin 7082.

¹⁵ 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1831 (Spec. Sess.), ch. 47, sec. 8.

¹⁶ 1 Rev. Stat. 1852, ch. 31, secs. 11, 12.

¹⁷ Acts 1831 (Spec. Sess.), ch. 47, sec. 13.

¹⁸ *Ibid.*, sec. 18.

¹⁹ Acts 1817-18 (general), ch. 15, sec. 8. 1 Rev. Stat. 1852, ch. 31, sec. 17. Acts 1831 (Spec. Sess.), ch. 47, sec. 23.

²⁰ 1 Rev. Stat. 1852, ch. 31, sec. 3.

²¹ Acts 1859; Burns 65-105; Baldwin 16065.

²² Acts 1831 (Spec. Sess.), ch. 47, sec. 10.

²³ 1 Rev. Stat. 1852, ch. 31, sec. 4.

judges were appointed by the inspector, and the clerks were appointed by the inspector and judges.²⁴ After 1881 they were chosen from the two political parties casting the highest number of votes in the last preceding general election.²⁵

Indiana, in 1889, was one of the first states to adopt the "Australian ballot"—an official ballot printed at public expense by public officers and distributed at the polls by the election officers. The board of election commissioners was established to prepare, print, and distribute the ballots and otherwise administer the election laws of the county.²⁶

The constitution fixes the date of general elections as the first Tuesday after the first Monday in November,²⁷ and an act of the general assembly provides that they be conducted biennially.²⁸ The sheriff gives notice to electors by posting, at the usual polling places 15 days before election, a copy of a certificate of the clerk of the circuit court stating what officers are to be elected.²⁹ The constitution further provides that all elections by the people must be by ballot.³⁰ This provision does not prevent the use of voting machines³¹ (provided by the board of county commissioners).³²

The board of county commissioners establishes the precincts³³ and provides all polling places and ballot boxes³⁴ and the auditor furnishes blank pollbooks and other forms to the inspectors.³⁵

The county board of election commissioners supervises general elections;³⁶ and it prints and distributes ballots

²⁴ Acts 1817-18 (general), ch. 15, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 4.

²⁵ Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

²⁶ Acts 1889, ch. 87, secs. 18, 26.

²⁷ Const., art. 2, sec. 14 (as amended in 1881).

²⁸ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

²⁹ Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082.

³⁰ Const., art. 2, sec. 13.

³¹ Spickerman v. Goddard (1914), 182 Ind. 523, 107 N. E. 2.

³² Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7148. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

³³ Acts 1889; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

³⁴ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

³⁵ Acts 1889; Burns 29-808; Baldwin 7097.

³⁶ Acts 1889; Burns 29-1116, 29-1117, 29-1119, 29-1120; Baldwin 7130, 7131, 7133, 7134. Acts 1903; Burns 29-2407; Baldwin 7355. Acts 1901; Burns 29-2410, 29-2426, 29-2428; Baldwin 7358, 7374, 7376.

for the election of all officers to be voted for in Delaware County, other than those who are to be voted for by all the electors of the state.³⁷ The state ballots are furnished by the state board of election commissioners.³⁸ The names of the candidates are arranged on the county ballots by the election commissioners. Candidates nominated by convention or primary election by parties casting one-half of one percent of the total vote of the state at the last preceding general election, and whose nominations have been duly certified to the clerk of the circuit court, are placed on the ballot under their respective party emblems. Candidates' names may be placed on the ballot by the petition of the required number (one-half of one percent of the total vote cast in the last preceding general election in the county) of qualified electors.³⁹ Political parties may be barred from the ballot if they advocate the overthrow, by force or violence, of the local, state, or national government. New parties must file, with the election commissioners in charge of the ballot or ballots on which they wish to appear, an affidavit declaring that they do not advocate such an overthrow.⁴⁰ The county board also prints and furnishes the ballot labels for the voting machines.⁴¹

The election is conducted by the precinct election boards, consisting of one inspector and two election judges, who were appointed by the county board of election commissioners. The township trustee is ex officio inspector in his own precinct and the other inspectors are nominated by the party casting the highest number of votes in the county for secretary of state in the preceding election. The two election judges must be of opposite political faith and are nominated by the county chairmen of the two major political parties. Other precinct officials—two election sheriffs, two poll clerks, and (if found necessary) two assistant poll clerks—are nominated and appointed in the same manner.⁴²

³⁷ Acts 1889; Burns 23-1002; Baldwin 7109.

³⁸ Acts 1889; Burns 23-1001; Baldwin 7103.

³⁹ Acts 1897, 1919, 1933; Burns 29-1106; Baldwin 7120. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Board of Election Comrs. v. State *ex rel.* Sides (1897), 148 Ind. 675, 48 N. E. 226; State *ex rel.* Garn v. Board of Election Comrs. (1906), 167 Ind. 276, 78 N. E. 1016.

⁴⁰ Acts 1935; Burns, 1939 suppl., 29-1015; Baldwin, 1935 suppl., 7120-1.

⁴¹ Acts 1901; Burns 29-2410; Baldwin 7353.

⁴² Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1922; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

Since 1933 city⁴³ and township⁴⁴ elections have been held at the time of the general election. They are under the supervision of the county board of election commissioners,⁴⁵ as are all special elections.⁴⁶

The board has full power to send for persons and papers and compel witnesses to answer proper questions under oath. The sheriff serves all process in county elections and obeys all orders of the board.⁴⁷

Records of all general elections are placed in sealed bags and filed in the office of the clerk of the circuit court (who is a member of the board of election commissioners) for preservation as provided by statute.⁴⁸

329. [ELECTION RETURNS], 1898—. In Election Record [General], entry 330.

Record of votes cast in primary and general elections, showing date of election, names of candidates, offices and members of board of canvassers, and number of votes cast for each candidate.

330. ELECTION RECORD [General], 1890—. 4 vols.

Sample ballots and record of number of ballots printed and distributed to townships and precincts in general elections, showing dates of election and certification of inspector, names of candidates, inspectors, election commissioners and township, ward and precinct numbers, and recapitulation of ballots printed, distributed and returned. Also contains: [Election Returns], 1898—, entry 329; [Election Record Primary], 1916—, entry 324; Record of Appointment of Election Sheriff, 1901—, entry 333. Arr. chron. by dates of elections. No index. Hdw. 600 pp. 18 x 14 x 4. 1 vol., 1890-91, attic stor. rm. 5; 2 vols., 1892-1925, clk. vt.; 1 vol., 1936—, clk. rec. rm. 1.

331. RECORD OF ABSENT VOTERS, 1918, 1924-26, 1932—. 4 vols. (3 vols. not labelled, 1).

Record of absent voters' ballots, showing dates of application, mailing and return of ballot and delivery to election inspector,

⁴³ Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1801; Baldwin 11632.

⁴⁴ Acts 1933, 1935; Burns, 1939 suppl., 29-1901; Baldwin, 1935 suppl., 7250.

⁴⁵ Acts 1933; Burns 29-1803; Baldwin 11635.

⁴⁶ Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881; Burns 29-1704; Baldwin 7249.

⁴⁷ Acts 1905; Burns 29-1408; Baldwin 7384.

⁴⁸ Rev. Laws 1824, ch. 35, sec. 14. Acts 1920 (Spec. Sess.); Burns 29-912; Baldwin 7157.

Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447.

names of township and voter, ward and precinct numbers, and home and mailing addresses of voter. Also contains: [Record of Absent Voters, Primary Election], entry 325. Arr. by townships or ward nos., thereunder num. by precinct nos. No index. Hdw. 240 pp. 17 x 15 x 2. 3 vols., 1918, 1924-26, attic stor. rm. 5; 1 vol., 1932-, clk. rec. rm. 1.

332. [CANDIDATES' EXPENSES, GENERAL ELECTION], 1904-. In [Clerk's Miscellaneous Papers], entry 44.

Affidavits of money expended during candidates' campaigns for election, showing dates of affidavit and filing, name of candidate, and itemized statement of expenditures.

333. RECORD OF APPOINTMENT OF ELECTION SHERIFF, 1898-1900.

1 vol. 1901- in Election Record [General], entry 330.

Record of appointments of precinct election sheriffs, showing dates of appointment and election, names of appointee, chairmen of party committee and township, and number of precinct. Arr. chron. by dates of appointments. No index. Hdw. 320 pp. 16 x 10 x 2. Attic stor. rm. 5.

XXI. COUNTY BOARD OF EDUCATION

The board of education, as established by an act of 1873, which was amended in 1877, consists of the county superintendent of schools, the township trustees, and the chairman of the school trustees of each city and town of the county. Before 1877 all the school trustees of each town and township were also included as members of the board.¹

Semiannual meetings of the board are held at the office of the county superintendent of schools on the first day of May and September. A majority of the board members constitutes a quorum. The county superintendent presides at the meetings and casts his vote in the same manner as the other members.²

The board acts in an advisory capacity by determining and considering the wants and needs of the schools; it provides for the maintenance of school property and purchase of furniture, books, maps, charts, and other supplies; and determines any change of textbooks, except in cities; and has the care and management of township libraries.³ The board

¹ Acts 1873, 1877; Burns 28-801; Baldwin 5963.

² *Ibid.*

³ *Ibid.*

may purchase textbooks from publishers and sell them to pupils at cost, plus the cost of handling the books, not to exceed 20 percent of the cost price,⁴ or rent them to pupils at not to exceed 25 percent of the retail price.⁵ Annually, the board may appoint an attendance officer for the county known as "county attendance officer." If the board makes no such appointment the county superintendent shall be ex officio attendance officer.⁶

334. RECORD OF COUNTY BOARD OF EDUCATION, 1907-. 2 vols. (A, and 1 vol. not labelled). 1905-6 in Record of Teachers, entry 345.

Minutes of meetings and proceedings of board of education, showing date of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by dates of meetings. No index. 1907-Apr. 1921, hdw.; May 1921-, typed. 575 pp. 16 x 11 x 3. Supt. off.

XXII. COUNTY SUPERINTENDENT OF SCHOOLS

The superintendent of schools of Delaware County is a statutory officer elected for a four-year term by the township trustees, under the authority of an act of 1899 and amendments thereof, which increased his powers as defined in an act of 1873.¹ To be eligible to the office of superintendent of schools, a person must have had five years' successful experience as a teacher and hold a first or second grade superintendent's license.² The superintendent must post bond in the amount of \$5,000—approved by and filed with the auditor—and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.³

The county superintendent of schools receives from the

⁴ Acts 1921; Burns 28-614; Baldwin 6692.

⁵ Acts 1935; Burns, 1939 suppl., 28-638; Baldwin, 1935 suppl., 6692-1.

⁶ Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

¹ Acts 1873, ch. 25, secs. 3, 4, 6-8. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

² Acts 1927, ch. 142, sec. 1. Acts 1935; Burns, 1939 suppl., 28-701; Baldwin, 1935 suppl., 5933-1. Acts 1923; Burns 28-4209; Baldwin 5920.

³ Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068.

county a regular salary of \$2,760 per year,⁴ but this amount may be increased by a vote of a majority of the township trustees.⁵ He also receives travelling expenses, not to exceed \$50 per month or \$300 in any school year.⁶

For sufficient legal grounds the superintendent of schools may be removed from office by the circuit court or the superior court after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.⁷ If the superintendent of schools is convicted of a felony the judgment of conviction must declare his office vacant.⁸

When any vacancy occurs in the office of county superintendent of schools, the township trustees meet in the office of the auditor, pursuant to notice given by him, and elect a person to fill the vacancy for the unexpired term. The auditor is the clerk in such election, and in case of a tie vote he casts the deciding vote.⁹

The county superintendent of schools, with the approval of the township trustees, may appoint an assistant. He is employed for such number of days as is necessary, and his compensation is fixed by the township trustees.¹⁰

Under authority of an act of 1853, the board of commissioners appointed one to three school examiners for the county, each to serve for a one-year term. These school examiners examined and licensed school teachers, and annually made a report to the state superintendent of public instruction.¹¹ A superseding act of 1861 provided for the appointment of one school examiner for a three-year term.¹² An act of 1873 changed the officer's title to "county superintendent", transferred to the township trustees the power of appointment.

⁴ Acts 1933; Burns 49-1004; Baldwin 7534.

⁵ Acts 1933, 1939; Burns, 1939 suppl., 49-1014; Baldwin, 1939 suppl., 7544. *Opinions of the Attorney General of Indiana, 1938*, p. 126.

⁶ Acts 1911, 1921; Burns 28-703; Baldwin 5936.

⁷ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1899; Burns 23-703; Baldwin 5932. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1675; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

¹⁰ Acts 1911, 1921; Burns 28-703; Baldwin 5937.

¹¹ Acts 1853, ch. 106, sec. 6.

¹² Acts 1861, ch. 41, secs. 32, 33.

made the county superintendent more responsible to the state superintendent of public instruction, and gave the county superintendent advisory supervision of the schools of the county.¹³ An act of 1927 changed the title of this office to "county superintendent of schools."¹⁴

The county superintendent of schools exercises general supervision of the schools in Delaware County which are not within incorporated cities and towns;¹⁵ visits the schools in session, at least once each year, for the purpose of increasing their usefulness and raising their standards as uniformly as practicable; carries out the orders of the state board of education and the state superintendent of public instruction;¹⁶ nominates an attendance officer to be appointed by the county board of education;¹⁷ conducts county teachers' institutes;¹⁸ conducts and presides over township institutes;¹⁹ reports to the school corporations as to teachers' preparation, experience, and license before they are employed;²⁰ provides for the examination of applicants for graduation from the common and high schools of townships, districts, and towns, and furnishes the certificates of graduation; attends commencements of the common and high schools of the townships and towns;²¹ examines and verifies certificates presented by township trustees for aid from the state common school relief fund;²² and inspects the official docket, records, and books of accounts of the clerks of courts, county auditor, board of commissioners, justices of the peace, prosecuting attorney, mayors of cities, and township and school trustees to ascertain if any of said officers have neglected to collect and pay to the school funds any revenues belonging to such funds.²³ He is a member of the county board of education and presides at its meetings.²⁴

¹³ Acts 1873, ch. 25, secs. 2-4.

¹⁴ Acts 1927, ch. 142, secs. 1, 2. Acts 1935, ch. 258, secs. 1, 2.

¹⁵ Acts 1899; Burns 28-705; Baldwin 5940. Acts 1873; Burns 28-1401; Baldwin 5973.

¹⁶ Acts 1921; Burns 28-305; Baldwin 5939. Acts 1899; Burns 28-704; Baldwin 5938.

¹⁷ Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

¹⁸ Acts 1907, 1929, 1933; Burns 28-4402; Baldwin 6725.

¹⁹ Acts 1899; Burns 28-704; Baldwin 5938.

²⁰ Acts 1927, 1933; Burns 28-4309; Baldwin 6005.

²¹ Acts 1899; Burns 28-706; Baldwin 5942.

²² Acts 1933; Burns 28-903, 28-904; Baldwin 6433, 6434.

²³ Acts 1873; Burns 28-712; Baldwin 5940.

²⁴ Acts 1873, 1877; Burns 28-801; Baldwin 5983.

See the essay entitled "County Board of Education."

The county superintendent of schools keeps a complete record of licenses held by all regular school teachers of the county (other than teachers of town and city schools), date of employment, their success grades, and the monthly or annual salary of each.²⁵ He makes an annual report to the state superintendent of public instruction concerning the enumeration of school children in county, townships, cities, and towns. He also reports statistics and other information concerning the condition of schools, schoolhouses, and general progress of education.²⁶

REPORTS

335. ANNUAL REPORT DELAWARE COUNTY PUBLIC SCHOOLS, 1885-. 52 vols.

Annual reports of township school trustees to county superintendent of schools, showing date of report, names of school, teacher and pupils, subjects taught, individual grades received, and promotions and failures. Also contains: Financial and Statistical Reports, 1911-, entry 336. Arr. by names of townships. No. index. Hdw. 800 pp. 11½ x 9 x 4. Supt. off.

336. FINANCIAL AND STATISTICAL REPORTS, 1883-1910. 2 vols. 1911- in Annual Report Delaware County Public Schools, entry 335.

Record of township trustees' financial reports to county superintendent of schools, showing date of report, number of children enumerated and admitted within year, names of employees and amounts of their salaries, number of school buildings, estimated value of all buildings and equipment, total amount of taxables, amounts and sources of money received and disbursed, and total amount of revenue on hand. Arr. by names of twps. No index. Hdw. 300 pp. 14 x 9 x 2. Supt. off.

337. RECORD OF SCHOOL EXAMINER, 1869-April 7, 1873. 1 vol. Discontinued.

Record of activities of county school examiners, showing date and nature of inspection, name of school examiner, and action taken. Arr. chron. by dates of inspections. No index. Hdw. 575 pp. 16 x 11 x 3. Supt. off.

338. [AGGREGATE ATTENDANCE RECORD], 1932-. 19 vols.

Record of teachers' reports of aggregate attendance of pupils

²⁵ Acts 1923; Burns 28-4217; Baldwin 5928.

²⁶ Acts 1865, 1873, 1895; Burns 28-714; Baldwin 5948.

for establishment of basis for distribution of school revenue, showing date of report, names of township or school corporation and teacher, school term, name, age, sex, date and place of birth and grade of pupil, and total days' attendance of each pupil. Arr. by twps. and school corporations, thereunder alph. by names of pupils. No index. Hdw. 450 pp. 12 x 20 x 5. Supt. off.

For prior records, see entry 341.

339. COUNTY SUPERINTENDENT'S REPORT OF SCHOOL BOOKS SOLD, 1900-1911. 1 vol.

Record of reports sent to schoolbook publishers of books sold and on hand, showing date of report, names of publisher and text, number of books received, sold and on hand, and total amount of sales. Arr. alph. by names of publishers. No index. Hdw. 300 pp. 17 x 14 x 2½. Supt. off.

340. SCHOOL GRADES 7-12 FOR HARRISON, GASTON, YORKTOWN, DESOTO, ROYERTON, COWAN, 1936-. 26 vols.

Reports of curricula of consolidated township schools, showing date of report, names of pupil, teacher and school, and age, school grade, and residence of pupil. Arr. by schools, thereunder num. by grades. No index. Hdw. 80 pp. 12 x 8 x 1. Supt. off.

ENUMERATIONS

341. CENSUS FIELD SHEETS, 1921-31. 204 vols. Title varies: Enumerations, 1921-24, 4 vols.

Record of enumerations of children between six and twenty-one years of age for establishment of basis for distribution of school revenue, showing date of enumeration, names of township, school corporation, teacher and parents, name, age, grade and date and place of birth of child, and occupations of parents. Arr. by twps. and school corporations, thereunder alph. by names of children. Hdw. 200 pp. 4 x 10 x 2. Supt. off.

For subsequent records, see entry 338.

TEACHERS

342. TEACHERS' APPLICATIONS, 1933-. 1 f. d.

Applications filed for positions to teach in township schools, showing date of application, and name, address, education, experience, personal data and references of applicant. Arr. alph. by names of applicants. No index. Hdw. 12 x 16 x 24. Supt. off.

343. [STANDARD REPORT OF TEACHERS' QUALIFICATIONS], 1906-.
2 vols. .

Record of qualifications of teachers employed in township schools, showing name, address, date and place of birth of teacher, name and occupation of father, training, experience and salary of teacher, and kind of license. Arr. by twps., thereunder alph. by names of teachers. No index. Hdw. 250 pp. 16 x 11 x 2. Supt. off.

344. RECORD OF TEACHERS' EXAMINATIONS FOR TEACHERS' LICENSES, 1867-Oct. 28, 1923. 7 vols. (3 and 6 vols. not labelled). Title varies: License School Examiner, 1867-June 1889, 1 vol.; Examination Record, July 1889-1905, 2 vols.; Record of School Teachers, 1906-21, 3 vols.

Record of examinations and issuance of licenses to teachers, showing dates of examination and license, name, age, address and experience of teacher, books received, grades, and results of examination. Arr. chron. by dates of examinations. No index. Hdw. 250 pp. 16 x 11 x 2. Supt. off.

345. RECORD OF TEACHERS, 1905-June 31, 1917. 2 vols.

Record of teachers assigned in Delaware County township schools, showing date assigned, names of teacher, school and township address, license record, scholarship and experience of teacher, and number of institutes attended. Also contains: Record of County Board of Education, 1905-6, entry 334. Arr. by names of twps., thereunder alph. by names of teachers. No index. Hdw. 350 pp. 16 x 16 x 2. Supt. off.

PUPILS

346. RECORD OF COMMON SCHOOL GRADUATES, 1884-June 1918.
2 vols.

Record of pupils graduating from common schools, showing date of graduation, names of school, superintendent, teachers and pupils, and report of credits received. Arr. chron. by dates of graduation. No index. Hdw. 500 pp. 16 x 11 x 3. Supt. off.

347. OFFICE RECORD CARD, 1930-. 1 f. b.

Card record of work permits issued or refused school children, showing name, age, date, place of birth and address of child, reason for issuing or refusing permit, and names and addresses of parents and employer. Arr. by names of townships, thereunder alph. by names of children. No index. Hdw. 5 x 7 x 18. Supt. off.

348. CERTIFICATES OF AGE FOR EMPLOYMENT CARDS, 1930-.

1 f.d.

Birth certificates issued by health officer to school children to obtain work permits, showing name, address, date and place of birth of child, and names and address of parents or guardian. Arr. by names of twps., thereunder alph. by names of children. No index. Hdw. 12 x 16 x 24. Supt. off.

XXIII. COUNTY HEALTH OFFICER

The health officer of Delaware County is a part-time statutory official appointed for a four-year term by the board of commissioners, with the approval of the state board of health, under the authority of an act of 1935. He must be a regularly licensed physician, suitably trained in sanitary science and hygiene.¹ He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.²

He receives an annual salary in an amount equal to three cents for each county resident, exclusive of the residents of any city having a health officer, provided that his salary must be between \$200 and \$1,800 per year.³

He may be removed from office by the board of commissioners or the state board of health. Any vacancy in office is filled through appointment by the board of commissioners, with the approval of the state board of health.⁴

From 1881 to 1909 the board of commissioners constituted, ex officio, the county board of health, and annually appointed a secretary who was a physician and served as county health officer. The law provided that the secretary must render medical and surgical services to inmates of the county jail and any other medical services required of him by the board

¹ Acts 1935 (effective January 1, 1938); Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. Interview of September 5, 1939 with Dr. Verne K. Harvey, director of the state board of health.

² Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

³ Acts 1935 (effective January 1, 1938); Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. *Opinions of the Attorney General of Indiana, 1938*, p. 17.

⁴ Acts 1935 (effective January 1, 1938); Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

of commissioners.⁵ An act of 1891 enlarged the duties of the board.⁶ In 1909 the county board of health was abolished and the office of county health commissioner (appointed for a four-year term by the board of commissioners) was established. This office continued until January 1, 1938, when the act of 1935 (the present law) became effective.⁷

The county health officer protects and supervises the general health and sanitation of the county, outside of incorporated cities having a full-time health officer;⁸ enforces the health laws of the state and the rules and regulations of the state board of health;⁹ oversees inspection of food and drugs; endeavors to promote sanitary conditions for the sale of food;¹⁰ condemns buildings unfit for human habitation;¹¹ sends samples of water to the state laboratory for inspection, in order to prevent pollution of water courses;¹² makes inspections of all public buildings and institutions; investigates the presence, source, and cause of disease; establishes quarantine; closes schools and churches and forbids public gatherings, in order to prevent epidemics; and protects public health in all reasonable and necessary ways.¹³

The county health officer each week mails to the state board of health a report summarizing all cases of contagious diseases. If there are no cases to report, he mails a printed form marked "no cases reported."¹⁴

The county health officer collects, records, and reports the vital statistics of the county; issues burial permits;¹⁵ and keeps full and permanent records of the public health work and of his reports. He makes monthly reports of his work to the state board of health.¹⁶

⁵ Acts 1881, ch. 19, sec. 8.

⁶ Acts 1891, ch. 15, sec. 8.

⁷ *Ibid.*, secs. 8, 10. Acts 1909, ch. 144, secs. 4, 6. Acts 1935 (effective January 1, 1938); Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

⁸ Acts 1935 (effective January 1, 1938); Burns, 1939 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

⁹ Acts 1891, 1909; Burns 35-111; Baldwin 8405.

¹⁰ Acts 1909; Burns 35-1009; Baldwin 8512. Acts 1907; Burns 35-1207; Baldwin 8476.

¹¹ Acts 1917; Burns 35-180; Baldwin 8563.

¹² Acts 1909; Burns 35-201; Baldwin 8410. Acts 1907, 1913; Burns 35-115; Baldwin 8393.

¹³ Acts 1891, 1909; Burns 35-111; Baldwin 8405.

¹⁴ Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8393, 8399. Rule 6 of state board of health.

¹⁵ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1907, 1912; Burns 35-115; Baldwin 8398.

¹⁶ Acts 1891, 1909; Burns 35-111; Baldwin 8405.

349. HEALTH OFFICER'S REGISTER OF CLAIMS, 1910-Aug. 27, 1918. 1 vol.

Record of claims filed for services rendered by health officer, showing dates of claim and allowance, name of health officer, nature of claim, and amount allowed. Arr. chron. by dates of claims. No index. Hdw. 320 pp. 18 x 14 x 2. Dr. C. J. Stover's off., 307 W. Adams St., Muncie.

VITAL STATISTICS

350. RECORD OF RETURNS OF BIRTH, 1882-. 26 vols.

Record of birth returns submitted by physicians, showing registry number, date, time and birthplace of child, name of attending physician, nature of birth, name, sex and color of child, number in family, names, ages, occupations and birthplaces of parents, and date of physician's report. Arr. chron. by dates of reports. Indexed alph. by names of parents. Hdw. 300 pp. 18 x 14 x 2. Dr. C. J. Stover's off., 307 W. Adams St., Muncie.

351. RECORD OF MARRIAGES, 1913-. 17 vols.

Record of marriage returns, showing date and place of marriage, names of bride, groom and person performing ceremony, and dates and places of birth, ages, color, nationalities, former marital status, occupations, health conditions and residences of bride and groom. Arr. chron. by dates of returns. Indexed alph. by names of grooms. Hdw. 100 pp. 16 x 12 x 1. Dr. C. J. Stover's off., 307 W. Adams St., Muncie.

For other marriage records, see entries 40-44.

352. RECORD OF DANGEROUS DISEASES, 1882-. 12 vols.

Record of contagious and infectious diseases, showing dates of report, quarantine and release, names of patient, family, informant and physician, age, sex, color and address of patient, and nature and duration of illness. Arr. chron. by dates of reports. Indexed alph. by names of patients. Hdw. 300 pp. 18 x 14 x 2. 8 vols., 1882-Jan. 19, 1913, C. C., bsmt. vt.; 4 vols., Jan. 20, 1913-, Dr. C. J. Stover's off., 307 W. Adams St., Muncie.

353. RECORD OF DEATHS, 1882-. 15 vols. (1-9 and 6 vols. not labelled).

Record of deaths, showing names of deceased, family and undertaker, dates and places of death and burial, cause of death, and dates and birthplaces of deceased and parents. Arr. chron. by dates of deaths. Indexed alph. by names of deceased; for separate index, 1882-1913, see entry 354. 100 pp. 16 x 12 x 1. Dr. C. J. Stover's off., 307 W. Adams St., Muncie.

354. INDEX DEATH RECORDS, 1882-1913. 1 vol.

Partial index to Record of Deaths, entry 353, showing names of deceased and father, and volume and page reference to recording. Arr. alph. by names of deceased. Hdw. 150 pp. 18 x 14 x 1½. Dr. C. J. Stever's off., 307 W. Adams St., Muncie.

XXIV. COUNTY DEPARTMENT OF PUBLIC WELFARE

The department of public welfare of Delaware County was created in 1936. Its affairs are administered by the county board of public welfare and a county director of public welfare.¹ The department is a legal entity and its official name is "The County Department of Public Welfare of Delaware County." It may sue and be sued in that name.²

Before the present system of welfare was organized, the county administered aid to the poor and needy through discretionary powers granted to the county. County asylums were established at an early date to care for those who were without homes and means to care for themselves.³ An act of 1857 authorized the board of commissioners to give aid to needy blind and infirm poor.⁴ In 1901 the board of children's guardians was established in the county to provide adequate care and supervision of neglected and dependent children.⁵ The board of county charities and corrections (organized in 1899) inspected and advised changes in the county institutions.⁶ A system of old-age pensions was provided for by an act of 1933.⁷ These previous methods of welfare assistance were merged into the present welfare law.⁸

Since the early days of the county, township poor relief

¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1117 to 62-1119, 52-1126; Baldwin, 1937 suppl., 14078-18 to 14078-20, 14078-27.

² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122(a); Baldwin, 1937 suppl., 14078-23.

³ Const. 1816, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. Rev. Stat. 1843, ch. 19, sec. 34. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1901; Burns 52-104; Baldwin 13361.

⁴ Acts 1857; Burns 26-1202; Baldwin 5295.

⁵ Acts 1901, 1923, 1927; Burns 22-2601, 22-2602; Baldwin 5684, 5685.

⁶ Acts 1899; Burns 22-2901, 22-2903; Baldwin 4116 to 4118.

⁷ Acts 1933, ch. 36, secs. 1-27 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 1407-122.

has been administered by township overseers of the poor (now the township trustee), from funds raised by township tax levies. Such poor relief is separate and distinct from the public welfare system discussed herein, but the two systems are often confused by the public.⁹

The county board of public welfare consists of five members appointed for four-year terms by the judge of the circuit court. Each member serves until his successor has been appointed and qualified. The members must have been residents of the county for at least two years before appointment, must have a definite and recognized interest in public welfare, and must take an oath of office. The judge of the circuit court may, at any time, after due notice in writing, remove any member of the board for misconduct, incapacity, or neglect of duty. At least two of the board members must be women and not more than three members may be adherents of the same political party. Regular meetings are held once a month. The August meeting is known as the annual meeting. Other meetings may be held pursuant to call. Three members of the board constitute a quorum for transacting business.¹⁰

The members of the county board of public welfare serve without compensation, but each member is entitled to receive five cents per mile for each mile actually and necessarily travelled in attending board meetings and state conventions of county board members.¹¹

Executive and administrative work of the county department of public welfare is carried on by the county director of public welfare. He is appointed by the county board of public welfare solely on the basis of merit from eligible lists established by the Indiana State Department of Public Welfare and serves as secretary of the board. He must have resided in the county at least two years before appointment, unless no qualified person is available. He must take an oath of office and post bond, in an amount fixed by the state department of public welfare, not exceeding \$5,000, to be approved by the judge of the circuit court and filed in the

⁹ Acts 1916-17, ch. 26, sec. 1. Acts 1817-18 (general), ch. 14, secs. 1-24. Rev. Laws 1824, ch. 15, sec. 7; ch. 72, secs. 1-25. Rev. Laws 1831, ch. 69, secs. 1-27. Rev. Stat. 1838, ch. 20, sec. 20. Rev. Stat. 1843, ch. 5, sec. 69. 1 Rev. Stat. 1852, ch. 81, secs. 1-38. Acts 1901, ch. 147, secs. 1-39. Acts 1935; Burns, 1939 suppl., 52-145 to 53-182a; Baldwin, 1935 suppl., 13320-2 to 13359-12.

¹⁰ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

¹¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

office of the clerk of the circuit court. He may be removed from office by the state department if his prescribed duties, functions and activities are not performed in compliance with the statutes and the regulations of the state department.¹²

The county director of public welfare receives a salary in an amount fixed by the county board of public welfare, within the salary ranges established by the state department. He also receives five cents per mile for each mile necessarily travelled in the discharge of his duties.¹³

The county director, with the approval of the county board, appoints the assistants in the department, from eligible lists compiled by the state department of public welfare, and determines the salaries of these assistants. Each assistant must have been a resident of the county for at least two years prior to his appointment, unless a qualified person cannot be found.¹⁴

Subject to the rules and regulations prescribed by the state department of public welfare, the county department is charged by statute with the administration of assistance to dependent children in their own homes, old-age assistance, the care and treatment of dependent, neglected, and handicapped children and children in danger of becoming delinquent, and services and assistance to the blind and to persons otherwise handicapped. The state and county departments also administer provisions and benefits of the federal "Social Security Act" of August 14, 1935. The county director performs duties of probation officer of the circuit court when so directed by the circuit court. The county department reports to the state department. Necessary quarters for the county department must be provided by the board of commissioners.¹⁵

Expenditures for welfare assistance and administrative expenses (including rent of office quarters) of the county department are paid from the county welfare fund raised by a separate tax levy,¹⁶ to which are added such repayments

¹² Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

¹³ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20. Interview of August 14, 1939 with Thurman A. Gottschalk, administrator of the state department of public welfare.

¹⁴ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1123; Baldwin, 1937 suppl., 14078-24.

¹⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1113, 52-1120; Baldwin, 1937 suppl., 14078-14, 14078-21.

¹⁶ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120, 52-1301; Baldwin, 1937 suppl., 14078-21, 14078-98.

as may be made under legal liability by recipients, their parents, children, or other persons liable for their support.¹⁷ Old-age assistance certificates, filed with the recorder, establish liens against estates of recipients to insure reimbursement.¹⁸ The county receives funds from the state, to the extent of 50 percent of the amount expended by the county department, and a part of any federal funds granted to the state, to be paid into the county welfare fund.¹⁹ All claims for administrative expenses are subject to allowance by the board of commissioners. Claims for assistance are determined by the department and approved by the director, and need not be allowed by the board of commissioners.²⁰ The county board of public welfare may accept gifts of personal property or income from real estate, for the homes or support of dependent children.²¹

The auditor keeps the records relating to the county welfare fund and its financial transactions.²² The county department keeps such records and accounts relating to assistance as the state department of public welfare prescribes.²³ All records are confidential, except the following: (a) Application for assistance, (b) awards, and (c) modification and revocation of awards.²⁴

PROCEEDINGS OF THE BOARD

355. MINUTES OF THE BOARD, 1936-. 1 vol.

Minutes of meetings and proceedings of board of public welfare, showing date of meeting, names of members present, business transacted, and action taken. Arr. chron. by dates of meetings. No index. Typed. 700 pp. 18 x 12 x 4. Pub. welf. off.

¹⁷ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

¹⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

¹⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1219, 52-1249, 52-1254; Baldwin, 1937 suppl., 14078-50, 14078-80, 14078-85. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1124a; Baldwin, 1937 suppl., 14078-24a.

²⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

²¹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122(b); Baldwin, 1937 suppl., 14078-23.

²² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1401; Baldwin, 1937 suppl., 14078-113.

²³ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1260; Baldwin, 1937 suppl., 14078-91.

²⁴ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1262; Baldwin, 1937 suppl., 14078-93.

356. APPOINTMENT AND AUTHORIZATION OF EMPLOYEES TO ADMINISTER OATHS FOR PUBLIC WELFARE PURPOSES AND REVOCATIONS, 1936-. 1 vol.

Affidavits of appointments and authorizations of employees to administer oaths for public welfare purposes, including revocations of appointments and authorizations, showing dates of affidavit and filing, name and oath of employee, names of members of the board, and terms of authorization. Arr. chron. by dates of filing. No index. Typed. 300 pp. 9 x 18 x 2. Pub. welf. off.

357. RECOMMENDATION OF COUNTY DIRECTOR OF PUBLIC WELFARE, 1936-. 1 vol.

Duplicate copies of recommendations of county director of public welfare as submitted to county board for action on rejections, awards, revocation, modifications or cancellations of assistance, showing dates of issue, consideration and recommendation, county code, certificate and application numbers, name of applicant or recipient, recommendation of county director, action of county board of welfare, and signatures of members of county board. Arr. num. by recommendation nos. No index. Typed. 350 pp. 12 x 14 x 2. Pub. welf. off.

OLD-AGE ASSISTANCE

(See also entries 98, 99, 270, 372)

358. RECORD OF ASSISTANCE GIVEN AGED PERSONS, 1936-. 1 vol.

Record of allowances and payments for old-age assistance, showing dates award effective, revoked or cancelled, name and address of recipient, application code and serial numbers, date, number and amount of warrants issued, and total payments. Arr. num. by serial nos. No index. Hdw. 300 pp. 9 x 14 x 3. Pub. welf. off.

359. REGISTER OF APPLICATIONS FOR OLD AGE ASSISTANCE, 1936-. 1 vol.

Register of applications filed for old-age assistance, showing dates of application and board action, application code and serial number, name and sex of applicant, disposal of application, and name of visitor assigned. Arr. num. by serial nos. No index. Typed. 400 pp. 9 x 14 x 3. Pub. welf. off.

360. [ASSISTANCE DOCUMENTS], 1936-. 9 f. d.

Original documents pertaining to public assistance, including:

- i. Applications for old-age assistance, data from responsible relatives, record of applicants for old-age assistance, visitors' reports, certificates of

award, change of award or withdrawal, showing date of document, name, age, color, birthplace and personal and family history of applicant, and application code and serial numbers.

- ii. Applications for assistance to dependent children, data from responsible relatives, record of dependent child's family, record of persons *in loco parentis*, certificates of award, change of award, withdrawal, and notice to governor's commission on unemployment relief of county board action on referrals for assistance to dependent children, showing date of document, name, age, color, birthplace and personal and family history of child and person *in loco parentis* or parent, and application code and serial numbers.

- iii. Applications for assistance to the blind, notices to report to eye physician, reports on eye examination by physician, visitors' reports, data from responsible relatives and record of applicants, showing name, age, address, color, marital status and personal and family history of applicant.

Arr. num. by serial nos. For index to old-age assistance, see entry 361; dependent children assistance, see entry 367; assistance to the blind, see entry 371. Hdw. and typed. 12 x 14 x 27. Pub. welf. off.

361. OLD AGE ASSISTANCE [Index], 1936-. 2 f. b.

Card index to [Assistance Documents], entry 360i, showing dates of application, allowance and rejection or withdrawal, application code and serial numbers, and name and address of recipient. Arr. num. by serial nos. Typed. 6 x 6 x 20. Pub. welf. off.

362. ALLOWANCE SCHEDULE FOR OLD AGE ASSISTANCE, 1936-. 1 vol.

Monthly schedules of allowances for old-age assistance, showing date of schedule, county code, claim, application and warrant numbers, name and address of payee, amounts of allowance and warrant, total payments for month, and certification of auditor and county welfare director. Arr. chren. by dates of schedules. No index. Typed. 850 pp. 18 x 12 x 2. Pub. welf. off.

363. OLD AGE PENSIONS, 1933-May 1, 1936. 5 vols. (1 vol. not labelled, 1-4).

Transcripts of applications for old-age assistance, showing dates of application and approval, name, address, age and family history of applicant, and amount allowed. Arr. chron.

by dates of applications. 1933-35, indexed alph. by names of applicants; 1936, no index. Typed. 600 pp. 20 x 12 x 4. Pub. welf. off.

364. [OLD-AGE PENSION APPLICATIONS], 1933-35. 20 f. b. Applications for old-age assistance, showing same information as in entry 363. Arr. alph. by names of applicants. No index. Hdw. 10 x 5 x 14. Aud. vt.

DEPENDENT CHILDREN ASSISTANCE

(See also entries 360ii, 372)

365. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN, 1936-. 1 vol.

Record of assistance given for support of dependent children, showing date of award, application code and serial numbers, name and address of parent, guardian or person *in loco parentis*, names and birth dates of children, date, number and amount of warrants issued monthly, and number and amount eligible for federal aid. Arr. num. by serial nos. No index. Hdw. 300 pp. 9 x 14 x 3. Pub. welf. off.

366. REGISTER OF APPLICATIONS FOR AID TO DEPENDENT CHILDREN, 1936-. 1 vol.

Register of applications for assistance to dependent children, showing dates of filing and board action, names of parent, guardian or person *in loco parentis* and visitor assigned, application code and serial numbers, and disposal of application. Arr. num. by serial nos. No index. Typed. 300 pp. 9 x 14 x 3. Pub. welf. off.

367. ASSISTANCE TO DEPENDENT CHILDREN [Index], 1936-. 2 f. b. Card index to [Assistance Documents], entry 360ii, showing dates of application, allowance and rejection or withdrawal, application code and serial numbers, name and address of applicant, parent and guardian or person *in loco parentis*, and amount of award. Arr. num. by serial nos. No index. Typed. 6 x 6 x 20. Pub. welf. off.

368. ALLOWANCE SCHEDULE FOR ASSISTANCE TO DEPENDENT CHILDREN, 1936-. 1 vol.

Monthly schedules of allowances for assistance to dependent children, showing date of schedule, claim, application and warrant numbers, name and address of payee, number of children, amounts of allowance, warrant and total payments for month, and certification of auditor and county welfare director. Arr. chron. by dates of schedules. No index. Typed. 350 pp. 18 x 12 x 2. Pub. welf. off.

369. SIGNATURE CARD [Assistance to Dependent Children],
1936-. 2 f. b.

Card file of recipients' signatures used for checking indorsements on assistance to dependent children award warrants, showing application code and serial numbers, name, age and address of child, and signatures of parents or guardian. Arr. num. by serial nos. No index. Typed. 6 x 6 x 20. Pub. welf. off.

BLIND ASSISTANCE
(See also entry 360iii)

370. REGISTER OF APPLICATION FOR AID TO THE BLIND, 1936-.
1 vol.

Register of applications for aid to the blind, showing application code and serial numbers, dates of application, consideration and award, date visitor assigned, name and sex of applicant, recommendation of county welfare director, and action of state welfare department. Arr. num. by serial nos. No index. Hdw. 300 pp. 9 x 14 x 3. Pub. welf. off.

371. ASSISTANCE TO BLIND [Index], 1936-. 2 f. b.

Card index to [Assistance Documents], entry 360iii, showing name, address and age of applicant, application code and serial numbers, and amount of award if granted. Arr. num. by serial nos. Typed. 6 x 6 x 20. Pub. welf. off.

CLAIMS AND RECEIPTS

372. REGISTER OF CLAIMS FILED AND APPROVED AND WARRANTS
ISSUED, 1936-. 1 vol.

Register of claims and warrants issued monthly for assistance to the aged and to dependent children, showing dates of claim and warrant, numbers of application, claim, warrant, appropriation and account, names of payee, appropriation and account, and amount of warrant. Arr. num. by claim nos. No index. Typed. 300 pp. 12 x 14 x 3. Pub. welf. off.

373. [BURIAL EXPENSE], 1936-. 1 f. b.

Triplicate copies of claims filed with state department of public welfare for reimbursement of state's share for burial expenses of recipients of public assistance, showing date of claim, application code and serial numbers, names of deceased and payee, amounts of claim and reimbursement due county, and date, number and amount of warrant. Arr. chron. by dates of claims. No index. Typed. 10 x 5 x 14. Pub. welf. off.

374. CASH RECEIPTS AND DISBURSEMENTS, 1936-. 1 f. d.

Monthly statements of condition of welfare funds as compared with auditor's books, showing date of statement, name of appropriation, kind and amount of assistance disbursed, amounts of balance at end of month, and certification of auditor. Arr. chron. by dates of statements. No index. Typed. 12 x 14 x 27. Pub. welf. off.

XXV. SURVEYOR

The surveyor of Delaware County is a constitutional officer, elected by the voters of the county for a two-year term, without restriction on re-election.¹ He is commissioned by the governor,² and holds office until his successor is elected and qualified.³ The surveyor must be an elector of the county, and must have been an inhabitant thereof during one year next preceding his election or appointment;⁴ and, while holding the office of surveyor, he must reside within the county, and must not hold any other lucrative office.⁵ He must post bond in an amount of not less than \$5,000—approved by the board of commissioners and filed with the clerk of the circuit court—⁶ and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁷

The surveyor receives a regular salary of \$2,000 per year.⁸ The law provides that his salary shall be one and one-half times that amount if he is a qualified engineer.⁹ He is not entitled to retain, as compensation for himself, any fees collected by him.¹⁰

¹ Const., art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3301; Baldwin 5504.

² Const., art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const., art. 15, sec. 3. *Pursel v. State ex rel. Roney* (1887), 111 Ind. 519, 12 N. E. 1003; *Boyles v. State ex rel. Riggs* (1887), 112 Ind. 147, 13 N. E. 415.

⁴ Const., art. 6, sec. 4.

⁵ *Ibid.*, art. 2, sec. 9; art. 6, sec. 6.

⁶ Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

⁷ Const., art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁸ Acts 1933; Burns 49-1004; Baldwin 7534.

⁹ Acts 1933; Burns 49-1010; Baldwin 7540.

¹⁰ Acts 1933; Burns 49-1005; Baldwin 7535.

For sufficient legal grounds the surveyor may be removed from office by the circuit court or the superior court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.¹¹ If the surveyor is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy in the office of surveyor is filled through appointment by the board of commissioners. The appointee must take oath and post bond as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹³

The board of commissioners may appoint, on recommendation of the surveyor, such number of deputy surveyors as may be necessary, determine whether they be full-time or part-time employees, and fix the salary of each deputy in an amount not exceeding \$200 per month. Such salaries are paid from the county treasury after an appropriation therefor is made by the county council. The surveyor may require any deputy to give bond. The deputies and assistants must take an oath of office. The deputies may perform all of the surveyor's official duties and are subject to the same regulations and penalties. They may be removed from office by the board of commissioners.¹⁴

Before the adoption of the Constitution of 1851,¹⁵ the county surveyor was a statutory officer appointed by the board of commissioners for an indefinite term from 1827 (the time of the organization of the county) until 1843 and for a three-year term thereafter.¹⁶

¹¹ Const., art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1929; Burns 4-704; Baldwin 1476. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 18052.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹³ Const., art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *State ex rel. Culbert v. Linkhauer* (1895), 142 Ind. 94, 41 N. E. 325. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁴ Acts 1933; Burns 27-102, 36-1103; Baldwin 5738, 8701. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-3307; Baldwin 13109, 5513. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Acts 1937; Burns, 1939 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

¹⁵ Const., art. 6, sec. 2.

¹⁶ Acts 1817-18 (general), ch. 30, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. Acts 1826-27, ch. 10. Rev. Laws 1831, ch. 102, sec. 1. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

The surveyor has full charge, under the direction of the board of commissioners, of all surveying and civil engineering of the county. He has charge of the preparations of plans, specifications, and supervision of the construction of all roads, bridges, ditches, drains, and levees. He also has charge of the maintenance of all ditches and drains.¹⁷

For private parties, the surveyor takes acknowledgments of mortgages and deeds for the conveyance of real estate,¹⁸ and, upon request, makes surveys to establish lines and corners of lands.¹⁹ Surveys made by the surveyor are prima facie evidence in favor of corners established and lines run, but an appeal to the circuit court may result in a resurvey by some other competent person.²⁰ The surveyor charges for his services the fees provided by statutory schedule.²¹

Since 1933 it has been the duty of the county surveyor to supervise the maintenance of county highways, bridges, and culverts, unless the board of commissioners appoints a county highway supervisor.²² There is a county highway supervisor in Delaware County.²³

The surveyor is required to attend all sessions (each lasting at least one week) of the annual road school conducted by Purdue University. His expenses for such attendance are paid from the general fund of the county.²⁴ On application of the surveyor it is the duty of the board of commissioners to provide for the location and establishment of a true and permanent meridian line at or near the county seat and upon public lands belonging to the county. After the completion and location of such established meridian line, the surveyor must file with the recorder a complete description of the marked meridian line and thereafter check his instruments against the line as often as necessary.²⁵

¹⁷ Acts 1933; Burns 27-101, 27-103, 27-104, 27-107 to 27-109, 27-111 to 27-116; Baldwin 5737, 5739, 5740, 5743 to 5745, 5747 to 5752. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

¹⁸ 1 Rev. Stat. 1852, Acts 1857; Burns 49-3317; Baldwin 5519.

¹⁹ Rev. Laws 1831, ch. 102, sec. 6. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311, 49-3312; Baldwin 5509, 5510.

²⁰ 1 Rev. Stat. 1852; Burns 49-3313; Baldwin 5515. Acts 1901; Burns 49-3314; Baldwin 5516.

²¹ Acts 1875 (Spec. Sess.); Burns 49-3318; Baldwin 5521.

²² Acts 1933; Burns 36-1101, 36-1102, 36-1110; Baldwin 8699, 8700, 8708.

²³ See the essay entitled "County Highway Supervisor."

²⁴ Acts 1925; Burns 49-3323; Baldwin 5520.

²⁵ Acts 1895; Burns 49-3327, 49-3328; Baldwin 10849, 10850.

The deputies return to the surveyor all field notes taken by them.²⁶ The surveyor is required to preserve a copy of the original field notes of the surveys of the townships in his county,²⁷ and keep a record of all surveys made by him.²⁸

SURVEYS

375. SURVEYOR'S LEVEL BOOK, 1896-. 542 vols.

Surveyor's field notes of measurements and level readings of surveys, showing date of survey, location of land markings, level readings, acreage, and township, section and range numbers. Arr. chron. by dates of surveys. No index. Hdw. 100 pp. 8 x 5 x ½. Surv. off.

376. SURVEYOR'S RECORD, ORIGINAL, 1838-91. 4 vols. (1-4). Record of land surveys made in Delaware County, showing date of survey, name of owner, location and description of land, and sketch of survey. Arr. chron. by dates of surveys. No index. Hdw. 200 pp. 18 x 14 x 2. Surv. off.

377. SURVEYOR'S RECORD, 1838-91. 3 vols. (1-3). Transcribed 1903.

Transcripts of Surveyor's Record, entry 376. Arr. chron. by dates of surveys. No index. Hdw. 200 pp. 18 x 14 x 2. Surv. off.

378. FIELD NOTES [Original Land Survey], 1821-51. 2 vols. Record of original government surveys of Delaware County, showing date of survey, plat of townships, location of cornerstones, location and description of lands and plats, names of witnesses, and total acreage. Arr. chron. by dates of surveys. No index. 380 pp. 18 x 14 x 3. Surv. off.

379. PLAT BOOK, 1853-. 7 vols. (1-5 and 2 vols. not labelled).

Plats of surveys of lands, showing location of lots and lands by section, township and range, description of markers, and names of property owners, cities, towns and additions. No obvious arr. For index, see entry 380. Hdw. 100 pp. 18 x 22 x 1. Surv. off.

380. GENERAL INDEX TO PLAT BOOK, 1853-. 1 vol.

Index to Plat Book, entry 379, showing name of addition, city or town, and volume and page reference to recording. Arr. alph. by names of cities, towns and additions. Hdw. 100 pp. 16 x 11 x 1. Surv. off.

²⁶ 1 Rev. Stat. 1852; Burns 49-3307; Baldwin 5513.

²⁷ Rev. Laws 1831, ch. 102, sec. 5. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

²⁸ 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311; Baldwin 5509.

PUBLIC IMPROVEMENTS

(See also entries 28-30, 236-238, 275-279)

ROADS

381. ROAD RECORD, 1913-Nov. 28, 1915. 1 vol.

Record of roads constructed in the county, showing dates of contract, completion and payment, names of contractor and road, and description, location and total cost of road. Arr. by names of roads. Indexed alph. by names of contractors. Hdw. 372 pp. 9 x 12 x 2. Surv. off.

DRAINAGE

382. ALLOTMENT RECORD, 1890-1933. 4 vols. (1-4). Title varies: Drainage Record, 1890-1909, 2 vols.

Record of allotments of shares for cleaning of ditches by property owners benefited, showing date of allotment, names of property owner and ditch, number and length of share, specifications for cleaning, and location and description of land benefited. Arr. chron. by dates of allotments. Indexed alph. by names of property owners. Hdw. 277 pp. 18 x 13 x 2. Surv. off.

383. DITCH DUPLICATE, 1898-1905. 1 vol. (1).

Record of contracts let for construction and maintenance of ditches, showing dates of bid and contract, names of ditch and property owners benefited, number of cubic yards to be excavated, location and description of property assessed, estimated cost per cubic yard for excavation, and amount of assessment levied. Arr. alph. by names of twps. Indexed alph. by names of ditches. Hdw. 240 pp. 19 x 14 x 2. Surv. off.

384. DITCH REPAIR RECORD, 1905-6. 1 vol. (1).

Record of assessments for repair of ditches, showing date of assessment, names of landowner and ditch, location and description of land benefited, number of acres, and amount of assessment. Arr. alph. by names of ditches. Indexed alph. by names of landowners. Hdw. 300 pp. 18 x 12 x 3. Surv. off.

385. ASSESSMENT BOOK, 1906-21. 2 vols.

Record of assessments on real estate for construction and maintenance of ditches, showing name of property owner, description, location and value of real estate and improvements, amount of assessment, and date of payment. Arr. alph. by names of property owners. No index. Hdw. 500 pp. 16 x 11 x 2. Surv. off.

MAPS

386. DELAWARE CO[unty], 1874. 1 map.

Political and land tenure map, showing plats of towns, historical pictures of early Muncie business, business houses and institutions, and town and township business directory. Drawn by A. L. Kingman, Philadelphia. Black and white. Scale: $1\frac{1}{2}$ " to 1 mi. 50 x 70. Surv. off.

387. CITY OF MUNCIE, 1891. 1 map.

Political map, showing original plan of city of Muncie and additions. Drawn by T. C. Hefel. Published at Philadelphia by E. P. Noll. Ptd. Scale: 400' to 1". 40 x 60. Surv. off.

XXVI. COUNTY HIGHWAY SUPERVISOR

The highway supervisor of Delaware County is a statutory officer, appointed by the board of commissioners under the authority of an act of 1933, and serves at the will of the board.¹ He receives a salary in an amount fixed by the board of commissioners.²

The board of commissioners employs and determines the wages of all the necessary road assistants. Such assistants are under the direct supervision of the county highway supervisor and make their reports to him.³

The board of commissioners has always had general supervision of the construction and repair of county highways, with the aid of district road supervisors (appointed by the board), the township trustees, and township road superintendents.⁴ From 1879 to 1913 the board of commissioners constituted, ex officio, a board of turnpike directors for that purpose.⁵ In 1913 this board was abolished and the office of superintendent of highways was created. The superintendent was appointed by the board of commissioners and placed in charge of the maintenance and repair of all highways,

¹ Acts 1933; Burns 36-1110; Baldwin 8708.

² *Ibid.* *Opinions of the Attorney General of Indiana, 1935*, p. 205.

³ Acts 1933; Burns 36-1107; Baldwin 8705.

⁴ Acts 1816 (general), ch. 8. Acts 1817-18 (general), ch. 43. Acts 1818-19 (general), ch.

11. Rev. Stat. 1824, ch. 87. Rev. Laws 1831, ch. 20, sec. 22; ch. 82. Rev. Stat. 1843, ch. 16.

1 Rev. Stat. 1852, ch. 48.

⁵ Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

bridges, and culverts in the county.⁶ In 1933 this office was abolished⁷ and the office of county highway supervisor was created.⁸

The county highway supervisor has general charge of the repair and maintenance of county highways, bridges, and culverts.⁹ He maps all highways; divides the roads into districts; gives each road a separate name or number; and states the length and character of each road and the kind and volume of traffic, for the purpose of uniform maintenance.¹⁰ He exercises police power in the control of highways, and may fix the maximum limit of loads for any highway, bridge, or culvert.¹¹ He establishes standards for maintenance according to topography, nature, volume of traffic, and the availability of repair materials; and he makes a complete itemized estimate of the cost of repair and maintenance of county highways, bridges, and culverts, for the annual budget.¹² He attends all regular meetings of the board of commissioners, and advises with them concerning repair and maintenance of the county roads;¹³ also he attends all sessions of the annual road school at Purdue University.¹⁴

The records of the county highway supervisor are maps of the highway system made by him,¹⁵ reports of work in progress,¹⁶ monthly reports to the board of commissioners of all work done, and an annual report of his work, with a complete statement of all expenditures under his supervision.¹⁷

388. COUNTY HIGHWAY SUPERINTENDENT'S LEDGER OF APPROPRIATION AND DISBURSEMENTS, 1932-. 1 vol.

Record of appropriations and disbursements of funds for construction and maintenance of county roads, bridges and culverts, showing dates and amounts of appropriation and disburse-

⁶ Acts 1913, ch. 330, secs. 1, 2.

⁷ Acts 1933; Burns 36-1113.

⁸ Acts 1933; Burns 36-1110; Baldwin 8708.

⁹ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹⁰ Acts 1933; Burns 36-1109; Baldwin 8708.

¹¹ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹² Acts 1933; Burns 36-1103; Baldwin 8701.

¹³ Acts 1933; Burns 36-1104; Baldwin 8702.

¹⁴ Acts 1933; Burns 36-1110; Baldwin 8708.

¹⁵ Acts 1933; Burns 36-1109; Baldwin 8707.

¹⁶ Acts 1933; Burns 36-1106; Baldwin 8704.

¹⁷ Acts 1933; Burns 36-1104; Baldwin 8702.

ment; names of claimant, road and fund, location and description of work, and total cost. Arr. alph. by names of funds. No index. Hdw. 450 pp. 14 x 18 x 4. High. sup. off.

For prior disbursement records, see entry 389.

389. COUNTY HIGHWAY SUPERINTENDENT'S LEDGER OF EXPENDITURES, 1914-31. 8 vols. (1-8).

Record of expenditures for construction and maintenance of county roads, bridges and culverts, showing dates, numbers, amounts and purpose of claim and warrant, names of claimant, road and district, and types of service rendered and material furnished. Arr. alph. by names of districts. No index. Hdw. 450 pp. 14 x 18 x 4. Bsmt. vt.

For subsequent records, see entry 388.

390. COUNTY HIGHWAY SUPERVISOR'S EMERGENCY PURCHASE ORDERS, 1937-. 3 cartons, 8 vols.

Duplicate purchase orders for material and supplies purchased by county highway supervisor, showing date and number of order, from whom purchased, quantity, unit price and description of material, and place of delivery. Arr. num. by order numbers. No index. Hdw. Cartons, 8 x 11 x 9; vols. 50 pp. 5 x 6 x 1/2. 3 cartons, 1937-38, attic stor. rm. 3; 8 vols., 1939-, high. sup. off.

391. DELAWARE COUNTY, INDIANA, 1932. 1 map.

Political and communication map, showing cities, towns, rivers, rail and interurban lines, and all state, county, and township highways and roads. Drawn by Robie Hiron. Published at Muncie, Ind. Scale: 2" to 1 mi. 40 x 40. High. sup. off.

XXVII. COUNTY INSPECTOR OF WEIGHTS AND MEASURES

The office of county inspector of weights and measures was established in Delaware County in 1919,¹ under authority of an act of 1911,² which was amended in 1913³ and later superseded by an act of 1925.⁴ The inspector of weights and measures is appointed for an indefinite term by the board of commissioners, with the approval of the state commissioner

¹ *Year Book of the State of Indiana for the Year 1920* (1921), 536. Interview of September 6, 1939 with Adah B. Storms, secretary of the state bureau of weights and measures.

² Acts 1911, ch. 263.

³ Acts 1913, ch. 161.

⁴ Acts 1925; Burns 69-104; Baldwin 1635.

of weights and measures, after examination by the state commissioner.⁵ He must post bond in an amount fixed by the board of commissioners.⁶

He receives a salary in an amount determined by the board of commissioners (not less than \$1,200 per year) and paid out of the county treasury after appropriation therefor by the county council.⁷

He may be removed from office at any time by the board of commissioners, with the approval of the state commissioner of weights and measures. For official misconduct he may be removed from office by the state commissioner, acting alone, subject to appeal to the circuit court or superior court.⁸

Inspection of weights and measures by the county existed from its organization in 1827. Early statutes directed the board doing county business to procure the necessary equipment and the clerk of the circuit court to act as inspector.⁹

The inspector has charge of the county standards, which are inspected by the state bureau at least once every two years. He may inspect and test all weighing and measuring devices and containers used in the county in determining the size, quality, and weight of articles offered for sale, hire, or award.¹⁰ He acts as a special policeman and may arrest without warrant anyone violating the laws concerning weights and measures, and may seize all false measuring or weighing devices or containers.¹¹

He keeps a record of his work, and submits monthly and annual reports to the board of commissioners and to the state commissioner of weights and measures.¹² The board of commissioners supplies the inspector with the necessary apparatus (acceptable to the state commissioner) for carrying out his duties.¹³

⁵ Acts 1925; Burns 69-104, 69-107; Baldwin 16335, 16338. *Opinions of the Attorney General of Indiana, 1933*, p. 201; 1937, p. 25.

⁶ Acts 1925; Burns 69-106; Baldwin 16337.

⁷ Acts 1925; Burns 69-104; Baldwin 16335. *Opinions of the Attorney General of Indiana, 1933*, p. 376.

⁸ Acts 1925; Burns 69-104, 69-107; Baldwin 16335, 16338. *Opinions of the Attorney General of Indiana, 1933*, p. 201; 1937, p. 25.

⁹ Acts 1817-18 (general), ch. 67, secs. 1, 2. Rev. Laws 1824, ch. 116, secs. 1, 2. Acts 1826-27, ch. 10. Rev. Stat. 1843, ch. 63, secs. 1, 2. 1 Rev. Stat. 1852, ch. 117, secs. 1, 2.

¹⁰ Acts 1925; Burns 69-103, 69-106, 69-108; Baldwin 16334, 16337, 16339.

¹¹ Acts 1925; Burns 69-108, 69-109; Baldwin 16339, 16340.

¹² Acts 1925; Burns 69-106; Baldwin 16337.

¹³ Acts 1925; Burns 69-102, 69-104; Baldwin 16333, 16335.

392. [INSPECTIONS OF WEIGHTS AND MEASURES], 1930-32, 1937-.
1 vol.

Record of inspections of weights and measures, showing date of inspection, number of certificate, name, address and nature of business, name of owner, type of scale, measure or pump, and result of inspection. Arr. chron. by dates of inspections. No index. Hdw. 100 pp. 22 x 18 x 1. Insp. off.

393. [PUMP INSPECTION], 1924-. 64 vols.

Duplicate copies of gasoline pump inspections, showing date of inspection, certificate number, name, address and nature of business, names of owner and operator, type of pump, and result of inspection. Arr. chron. by dates of inspections. No index. Hdw. 100 pp. 6 x 4 x 1. Insp. off.

394. [SCALE INSPECTION], 1924-. 61 vols.

Duplicate copies of scale inspections, showing date of inspection, certificate number, name, address and nature of business, name of owner, description, condition and make of scale, length of time in use, and result of inspection. Arr. chron. by dates of inspections. No index. Hdw. 100 pp. 6 x 4 x 1. Insp. off.

XXVIII. COUNTY AGRICULTURAL AGENT

The agricultural agent of Delaware County is a statutory officer appointed for a one-year term by the director of agricultural extension service of Purdue University, with the approval of the county agricultural agent board (a state board), under the authority of acts of 1913, 1923, 1927, and 1937. This board prescribes his qualifications and may remove him from office. Any vacancy in office is filled in the manner provided for making the original appointment. The county council is required to appropriate \$1,000 annually for the expenses of his office and the state pays through Purdue University the sum of \$1,800 per year for his salary.¹

An act of 1829 provided for the establishment of county agricultural societies but no funds were appropriated. An amendment of this act in 1835 encouraged the county to provide funds for the development of agriculture. These early

¹ Acts 1939, ch. 47, sec. 2, p. 275. Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457. *Opinions of the Attorney General of Indiana, 1937*, pp. 144, 561. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

societies were short lived but were revived by an act of 1852 which provided for the offering of annual premiums by the county for the various phases of agricultural improvement. By 1890 every county in the state had its agricultural society.²

The office of agricultural agent was established in Delaware County in 1914 under authority of an act of 1913, which provided for its establishment on petition of 20 county residents and deposit of \$500, and was thus continued until the act of 1937 made the office mandatory. Before 1937 the agent was appointed annually by Purdue University (except that re-appointments after 1923 could be made for two-year terms), subject to the approval of the state and county boards of education.³

The agricultural agent, under the supervision of Purdue University, co-operates with farmers' institutes, farmers' clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys' and girls' clubs and contest work, and other movements for the advancement of agricultural and country life; gives advice to farmers on practical farm problems; and aids the superintendents of schools and the teachers of the county in giving practical education in agriculture and domestic science.⁴

Delaware County has a home demonstration agent to develop extension programs for the improvement and advancement of agriculture, home economics, and rural life, in harmony with federal and state laws and in close co-operation with the work of the county agricultural agent. The agricultural extension division of Purdue University selects the home demonstration agent and supervises her work. She must be unmarried, a graduate of a recognized school of home economics, and have some practical experience in teaching. Her salary is paid by Purdue University from federal land grant college funds. Her office expenses are paid from funds appropriated by the county council. Her term of office is indefinite. She directs all home economic extension work, both adult and junior, including girls' 4-H clubs, and co-operates with the county schools.⁵

² Acts 1828-29, ch. 4, secs. 1, 7. Acts 1834-35 (general), ch. 70, sec. 1. 1 Rev. Stat. 1852, ch. 2. William Carroll Latta, *Outline History of Indiana Agriculture* (Lafayette, Indiana, 1938), 271-274.

³ Acts 1913, ch. 24, sec. 12. *Third Annual Report, Purdue University, Department of Agricultural Extension, 1914*, p. 5.

⁴ Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

⁵ U. S. C., title 7, secs. 341 to 343, 344 to 348 (law of 1914). Acts 1931; Burns 28-5627;

The records of the agricultural agent and home demonstration agent consist of reports to Purdue University concerning their activities, compiled under the direction of the university.⁶

395. MONTHLY REPORTS, 1914-. 2 f. d.

Copies of monthly reports to Purdue University agricultural extension service, showing dates of report, meetings of farm and home management, demonstrations, and soil and tuberculin tests. Arr. chron. by dates of reports. No index. Typed. 12 x 14 x 30. Agr. agt. off.

396. ANNUAL REPORT, 1914-. 1 f. b.

Copies of annual narrative and statistical reports of activities of county agent, showing date of report, statistics of farm products and cattle raising, farm and home management, child training, number and kind of subjects taught, attendance at meetings, demonstrations, farm visits, and summary of results accomplished. Arr. chron. by dates of reports. No index. Typed. 12 x 14 x 30. Agr. agt. off.

397. FARM BUREAU ENROLLMENT CARDS, 1931-. 2 f. d.

Enrollment cards of farm bureau membership, showing date of enrollment, name and address of member, and nature of activities in farm bureau program. Arr. alph. by names of members. No index. Hdw. 4 x 6 x 16. Agr. agt. off.

398. ENROLLMENT CARDS 4-H CLUB [Boys], 1932-. 1 f. d.

Enrollment cards of boys 4-H club memberships, showing same information as in entry 402. Arr. alph. by names of members. No index. Hdw. 4 x 6 x 16. Agr. agt. off.

399. [ANNUAL REPORTS, 4-H CLUBS], 1929-. 1 f. d.

Annual reports of work and activities of 4-H clubs, showing dates of report and contests, names of contesting members, branch of domestic or agricultural science participated in, results of experiments, and progress made. Arr. chron. by dates of reports. No index. Hdw. 12 x 14 x 24. Agr. agt. off.

400. [4-H CLUB PAPERS], 1926-. 1 f. d.

Reports of project and contest activities and awards made to 4-H club members, showing date of contest, names of members participating, kind of project, grade made, and prize awarded. Arr. alph. by names of members. No index. Hdw. 12 x 14 x 24. Agr. agt. off.

Baldwin 6475. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

⁶ Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

401. [AGRICULTURAL AGENT CLAIMS], 1922-. 3 f. d. Triplicate copies of claims filed monthly with the auditor for administrative expenses of agent and assistants, showing dates of claim, and filing, amount of claim, and name of claimant. Arr. chron. by dates of filing. No index. Typed. 3 x 4 x 12. Agr. agt. off.

402. ENROLLMENT CARDS 4-H CLUB G[irls], 1932-. 2 f. d. Enrollment cards of girls' 4-H club memberships, showing date of enrollment, name, age and address of member, parents' consent, and project interested in. Arr. by names of twps., thereunder alph. by names of members. No index. Hdw. 1 f. d., 5 x 7 x 18; 1 f. d., 12 x 14 x 20. Home demonstration agt. off.

403. [HOME ECONOMICS CLUBS], 1930-. 2 f. d. Applications for membership in home economics clubs, showing dates of application and oath, name of club, and name, address and marital status of applicant. Arr. alph. by names of clubs. No index. Hdw. 1 f. d., 5 x 7 x 18; 1 f. d., 12 x 14 x 30. Home demonstration agt. off.

404. CLAIMS HOME DEMONSTRATION AGENT, 1929-. 1 f. d. Triplicate copies of claims approved by Purdue University and filed monthly with auditor for payment of administrative expenses of agent, showing date of claim, itemized list of expenses, and name of claimant. Arr. chron. by dates of claims. No index. Typed. 12 x 14 x 30. Home demonstration agt. off.

XXIX. COMMISSION OF PUBLIC RECORDS

The commission of public records of Delaware County, created under an act of 1939, consists of the judge and clerk of the circuit court, the president of the board of commissioners, and the county auditor. The commission elects one of its members as chairman. The clerk of the circuit court is secretary.¹

The members of the commission serve without compensation and receive no reimbursement for any expenses.²

¹ Acts 1939, ch. 91, sec. 1. For laws concerning eligibility, oath, and removal of these officers, see the essays on circuit court, board of commissioners, auditor, and clerk of the circuit court.

² Acts 1939, ch. 91, sec. 1.

An act of 1877 required the board of commissioners to order copies to be made of any public records in the county when necessary for their preservation.³ An act of 1925 provided that any public official, at his discretion, may turn over to the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials, not in current use in his office.⁴ An act of 1937 amended that of 1925 by a provision that the director of the state library, at his discretion, may make a copy of any official book, record, document, original paper, newspaper, or printed book or material in any public office, for preservation in the state archives.⁵ An act of 1935 created within the executive department of the state a commission on public records, consisting of the governor, the secretary of state, the state examiner, the director of the state library, and the director of the historical bureau. This act is almost identical with that of 1939 creating a commission of public records in each county, except for the provisions relative to ex officio members of the commission.⁶ These laws reflect the attitude of the general assembly toward the preservation of public records.

It is the duty of the commission to classify public records on the following basis: Those (a) of neither official nor historical value; (b) of current official value, to be retained in the office to which they belong; (c) of official value, but rarely consulted and of no appreciable value to the officer with whom they are filed; (d) of purely historical value.⁷

Records of class (a), occupying space to no purpose in offices and storerooms, must be destroyed or otherwise disposed of three years after they were originally filed, unless a law requires that they be saved beyond that period or altogether prohibits their destruction.⁸

Records of classes (c) and (d) must be transferred to the state library three years after the date of the filing, unless they are then in frequent use by the officer in charge. In event of such transfer, the records of class (c) will be added

³ Acts 1877; Burns 26-634; Baldwin 5339.

⁴ Acts 1925; Burns 63-830; Baldwin 10287.

⁵ Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶ Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

⁷ Acts 1939, ch. 91, sec. 2.

⁸ *Ibid.*, secs. 3, 4.

to the archives of the library, while those of class (d) will constitute a part of the collections of that institution.⁹

When any public records are ordered destroyed or transferred, the commission must enter an order to that effect on its minutes. The order must be dated and must contain a general description of the public records to be destroyed or transferred.¹⁰

It is unlawful for any public official or person to destroy any public record unless the commission has previously given its approval in writing and entered such approval on the minutes of the commission.¹¹

Within the meaning of the act of 1939, a public record is any written or printed book, paper, document, map, or drawing which is the property of any county, and in or on which any entry has been made or is required by law to be made, or which any officer or employee of the state has received or is required to receive for filing.¹²

⁹ *Ibid.*, secs. 4-6.

¹⁰ *Ibid.*, sec. 7.

¹¹ *Ibid.*, sec. 8.

¹² *Ibid.*, sec. 9.

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- NO. 49. MARION COUNTY
(Indianapolis, Indiana Historical Bureau, 1938)
- NO. 71. ST. JOSEPH COUNTY
(Indianapolis, Indiana Historical Bureau, 1939)
- NO. 82. VANDERBURGH COUNTY
(Indianapolis, The Historical Records Survey, 1939)
- NO. 87. WARRICK COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1940)

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